

1904-056 Chancery Causes: J. C. Roller vs. James M. Duff &c
Lee Co.

Tutt, Compton, Goslyn, Rutherford, Lockhart, Mursey, Frost,
Perkins, Marcum, Ball, Stapleton, Tate, Cox

CA-Estate Dispute
T-Property

-Deed

Virginia,

In the Circuit Court of Lee County.

To the Hon. W. T. Miller, Judge of said Court:-

-----Humbly complaining, your orator, J. C. Roller,
would represent and shew unto your honor, ^{that} on or about the 10th day of
March 1891, one Phillip Roller departed this life intestate, seized and
possessed of a valuable real estate in said county on Wallen's Creek,
which descended to his ^{Margaret Roller his} widow and heirs; that the said Phillip Roller
had only two children, to-wit: Andrew J. Roller and Barbara Roller,
who married Claiborne Duff. The said Barbara died before her father
leaving four children, to-wit: James M. Duff, W. B. Duff, Lucinda
Duff, who married-----Compton and Barbara C. Duff, who ~~married~~
~~married~~ -----Tutt; that the said Barbara C. Tutt, died previous to
the death of the said Phillip Roller, leaving four children, who are
non-residents of this State, and whose names are to your orator unknown.
The said real estate belonging to the said Phillip Roller has been
partitioned between the said A. J. Roller, the said James M. Duff,
and the said unknown heirs of the said Barbara C. Tutt; the said James
M. Duff claiming to be the owner of the interest of his brother, W.
B. Duff, and of his sister, the said Lucinda Compton, but in said par-
tition there was a lot or parcel of the said Phillip Roller's real es-
tate on which there is a small dwelling house and some other improve-
ments, said lot containing about one acre, that was not partitioned
by the Commissioners, who made said partition; it being the house and
lot recently and for several years occupied by Mx Lilbourn H. Gobble,
and which is bounded by the school house lot known as Duff's school
house and by the lands assigned in said partition to the said Tutt
heirs. Your orator further represents and shows unto your honor that
he has recently obtained from the said Andrew J. Roller a deed con-
veying to him the said Roller's interest in the said lot or parcel of
land, being one-half thereof. And he supposes it is true that the said
James M. Duff owns three-eighths thereof, the heirs of the said Bar-
bara C. Tutt, deceased, own the remaining one-eighth thereof.

-----Now, the object of this bill is to have the said lot or par-
cel of land partitioned or sold and the proceeds thereof, ^{divided} between those
entitled thereto; and your orator alleges that the same can not be con-
veniently partitioned, his prayer therefore is, that the said James M.

and Margaret Keller, widow
Duff and the unknown heirs of Barbara C. Tutt, deceased, be made parties defendant to this bill, and answer the same, but not on oath, that being waived; that the said lot or parcel of land be sold and the proceeds of the sale be divided between your orator, James M. Duff, and the said Tutt heirs according to their respective interests therein; and that your honor will grant unto your orator such further and general relief as may be consistent with equity and the case requires.
— I may order of publication be made posted & published against said Tutt heirs
May process issue, directed, etc. And your orator will ever pray,
etc.

Chas. Blankenship P. C.

10.473:

J. C. Roller

vs. { Ju. Ch. y. } Bill.

James W. Duff, et al.

Orn & Blankenship,
P. G.

1897 1st May rules & part on
home debts D & O P for
non residents.

" 2nd May rules D & O Confd
& O P Complete & Cause set
for hearing

1897 June Term Decree & Contd

" Novr " Contd

1898 June Term Decree final

Chy O. B. 6 Page 156-7

Plffs Costs

Clerk 8.69
Tax 1.50
Shiff 3.40
Atty 15.00
Printer 5.00
J. P. 13.00
Wits 6.00
Co. C 2.34

Defts Costs

Clerk 1.86
Shiff 1.60
Ch. P. 4.12
Wits 7.52
J. P. 3.00
\$18.10

To the honorable W. T. Miller Judge of the
Circuit Court of Lee County, Va.

The answer of Margaret Roller, widow of
Phillip Roller deceased, to a bill filed in this
honorable court against this respondent and
others by J. C. Roller.

Her answer thereto, and so much as she is advised
it is necessary or material that she should an-
swer, answering she says, it is true that her
said husband departed this life seized and
possessed of a valuable real estate as charged
in said bill, and which descended to her as his
widow and to his heirs; and that said real
estate has been partitioned, except the house
and lot in the bill mentioned.

And she supposes it is true that the plaintiff J. C.
Roller has purchased and owns the interest
of A. J. Roller in said house and lot; and that
it is likewise true that said house and lot
can not be conveniently partitioned among the
parties in interest, and she hereby consents, upon
her part, to a sale of said house and lot, by
decree of your honor, and is willing to take
compensation out of the proceeds of said sale
for her dower interest in said property.

And now having answered she prays to be hence
dismissed with her reasonable costs.

Orn & Blankenship, for
Respondent.

J. C. Raller.

vs { Aus of Margaret
3 Raller.

James M. Duff et als.

Filed in open court
and by leave thereof

June 6th 1898.

A. B. Munsey Clerk

To the Honorable W.T. Miller Judge of the Circuit

Court of Lee County Virginia:

The demurrer and answer of J.M. Duff, to a bill exhibited against him and others in this honorable court by J.C. Roller.

Respondent says that he is advised that said bill is not sufficient in law to call upon him to answer in this honorable court, and he demurs to the same and prays judgement of his said demurrer.

And not waiving said demurrer but relying and insisting thereon, should other and further answer be required of him, answering he says; that it is true that Phillip Roller departed this life intestate some time in the year 1891, that at the time of his death the said Roller was seized and possessed of a very valuable real estate situated on Wallens Creek in said County of Lee, that the said Roller left a widow Margaret Roller that he had only two children, to wit Andrew J. Roller and Barbara, who intermarried with one Claiborne Duff, that the said Barbara died before he father leaving four children, to wit, your Orator, J.M. Duff, W.B. Duff, Lucinda who intermarried with one Compton and Barbara C. who intermarried with Stephen Tutt, that the said Barbara C. Tutt died before her grandfather, the said Phillip Roller, that the said Barbara left as respondent is informed four children, but respondent does not know whether or not the said complainant knows their names, that he supposes it is true that said Tutt Children are non residents of the state of Virginia. Respondent says that it is likewise true that the real estate of the said Phillip Roller has been partitioned among those entitled thereto, and that in said partition there was laid off and assigned to respondent three shares of the moiety of said land which descended to the said Barbara Duff deceased, to wit, the share of W.B. Duff, the share of Lucinda Compton and his own share, but this respondent most emphatically denies that there was a lot or parcel of land belonging to the said Phillip Roller, on which there was a small dwelling house and some improvements that was not partitioned, and he demands full and adequate proof of this allegation of said bill, he most emphatically denies that there was any part of the said Rollers land that was left unpartitioned, either bounded by the school house lot and the lands assigned to Barbara Tutt's heirs or anywhere else.

Respondent denies that said Complainant has recently, or at any other time, obtained from A.J. Roller a deed conveying to him the said Roller's interest in the said lot or parcel of land, described in the bill, he denies that the said A.J. Roller had any interest in said lot to convey, he denies that said complainant has by any means acquired title to said lot or parcel of land, he denies that said A.J. Roller ever conveyed any interest in land, owned by him, to said complainant.

Respondent will now show your honor that all the lands of Phillip Rolle deceased were duly partitioned among his heirs, by commissioners appointed for the purpose, in a suit duly instituted in a court of competent jurisdiction, but he is advised that if there was any land at the time of said partition, to which the said A.J. Roller, the complainants alleged vendor thought the said Phillip Roller had title, and in which he had an interest, it was his duty to then have it partitioned, he the said A.J. Roller being a party to said suit and the plaintiff in said partition proceedings, and that having failed to do so, or to interpose any objection whatever to the partition then made, that now he cannot himself, nor can any person claiming under him disturb said partition thus made. He is advised that a party can not split up his cause of action and make two suits where one would have answered all the purposes. And now having answered said bill as fully as he deems it material to answer the same and here expressly denying every allegation not herein before admitted or denied he prays to be hence dismissed with his costs.

Pridemore & Swell

C. T. Duncan. Atty. for

J. M. Luff by Counsel

J. M. Jeff

ans by answer.

J. C. Roller

~~Filed in open Court and~~
~~by leave thereof June 16th~~
1897. A. B. Munsey Clerk

J. C. Keller vs J. M. Duff et al

In this cause it is ordered that Jos W. Orr
be & he is hereby substituted as special
commissioner in the room & stead of
G. W. Blankenship with all the powers
& subjects to all the limitations & condi-
tions imposed upon said Blankenship
and this cause is continued -

J. C. Keller

vs { Decree

In default

Eu C.B.B. No 7
page 44.

Enter this
Nov. 16th 1907
H. A. W. Fisher

J. C. Keller.

against

J. M. Duff et al

} In chancery.

This cause came on again to be heard upon the papers formerly read in the cause, and the report of George W Blankenship, Special Commissioner, of the sale of the house & lot in the bill mentioned, filed in the cause October 21st 1898, and was argued by Counsel. In consideration ~~and said report being uncontroverted~~ thereof, it is adjudged, ordered and decreed that said report ~~be~~ and the sale therein reported ~~be~~ ^{and} the same is hereby confirmed, and that said Commissioner George W Blankenship, pay out to those entitled the costs in his hands, and collect the purchase money notes when they become due, and pay the same to those entitled, and when the purchase money is fully paid that he convey the said house and lot to the purchaser with covenants of special warranty, and report his action to some future term of the Court. And the Cause is continued.

J. C. Roller.
v3 { Decree 102
James McDuff et al

Eu. C. B. 6 p. 173 $\frac{1}{4}$

Enter this Decree
N. 24
100 9th 1898.

J. C. Keller
against

Plff

Defts

In Chancery.

James M Duff et als

This cause came on to be heard upon the bill of the plaintiff, the process duly executed on the home defendants, and order of publication duly made, posted and published against the nonresident defendants, and the cause regularly matured at rules and set for hearing by the Plaintiff, and was argued by Counsel. And on motion of the defendant, James M Duff leave is granted him to file his demurrer and answer to plaintiffs bill, and the same was filed, and said demurrer being argued is overruled, and the plaintiff replied generally to said answer, and the other defendants failing to appear and demur, plead or answer the bill is taken for confessed against them. And the cause is continued.

J. C. Roller.

os { Decree 101.

James McDuff et
Wals.

Eu. C. & B. No. 6. p. 32.

Enter this decree
At 2 M
June 16th 1897.

J. C. Roller,-----Plaintiff.

Against----(---In---Chancer.----(Decree.)

James M. Duff, the unknown heirs of Barbara C. Tutt, deceased, and Margaret Roller,-----Defendants.

----On motion of Margaret Roller leave is granted her to file her ~~answer~~ answer and the same was accordingly filed, to which the plaintiff replied generally; and thereupon the cause came on to be heard upon the papers formerly read in the cause, the answer of said Margaret Roller, a replication thereto, the depositions of witnesses, and was argued by counsel: On consideration thereof, and the Court being of opinion that the house and lot in the bill mentioned is a portion of the real estate of Phillip Roller, deceased, and that the same had not been heretofore partitioned, and that the plaintiff is entitled to have the said house and lot partitioned or sold, and it appearing to the Court from the evidence in the cause that the said house and lot can not be conveniently partitioned, it is therefore adjudged, ordered and decreed that George W. Blankenship, who is hereby appointed a Commissioner for the purpose, do proceed to sell the said house and lot at the front door of the Court House of this County on some Court day to the highest bidder on a credit of one and two years time, after having advertised for thirty days the time, terms and place of sale on the front door of said Court House and in the vicinity of said land, except the costs of suit and expense of sale will be required to be paid in hand, and for the deferred payments bonds with good security will be required of the purchaser bearing interest from date. Said Commissioner is directed to sell said house and lot free from dower, it appearing ~~in~~ from the answer of said Margaret Roller, widow of Phillip Roller, deceased, that she consents to the sale of said property and is willing to take compensation for her dower out of the proceeds of said sale. Before acting under this decree said Commissioner will execute bond before the Clerk of this Court in the penalty of \$200.00 conditioned according to law, and will report his action to the next term of this Court. And it is further adjudged ordered and decreed that the plaintiff recover against James M. Duff the costs of this suit, ~~except as aforesaid shall be borne by the parties, according to their interest.~~ *the costs of this suit by reason of setting up his claim to said lot and for which the costs of this* except expense of said sale, and for which execution may issue. And the cause is continued.

1
C. and J. M. Duff

The depositions of ~~R. E.~~ ^{C.} Duff, taken pursuant to agreement at the office of C.T. Duncan in Jonesville Va. on the 3rd day of June 1898 to be read as evidence on behalf of the defendant in the Chancery cause now pending in the Circuit court of Lee County in which Claiborne Roller is Plaintiff and J. M. Duff is defendant

R.E.Duff a witness of lawful age deposes and says

Ques. 1. Please state if you know of any timber having been taken from the lot on which you live in the last 15 to 25 years if so what kind and how much?

Ans. I know of four trees having been cut from said lot I do not remember the time exactly but it has been less than 20 years ago, ^{two} of these trees were oaks, one was a black walnut and the other a dead or dry willow, and I have prized up a number of other sound stumps on said lot since I have been living up on it, and there stumps there yet in a decayed state.

Ques. Did you ever at any time show Thomas Ball the lines of said lot tell him or that the fence was on the lines

Ans. I never at any time told him the fence was on the lines for it is not all the way around the land, and if I ever at any time showed him the lines I do not now remember it, and I do not remember ever telling him anything about the lines of said land.

Ques. Please state if ever said lot was all ploughed up, except a little corner up next the church lot and if you say it was not, please state what part of it was never ploughed?

Ans. It never was, around the house there is a large yard that was never ploughed, and on the west side or end of the lot there is a strip that has never been ploughed in the last 25 years, this strip lies along up towards the spring. Upon the whole there is at least one fourth of the lot that has not been ploughed in the last 25 years if it ever was.

Ques. Do you know L.H. Gobble, if so is he still living and what is the condition of his health recollection &c.

Ans. I am acquainted with Mr. Gobble, he is my grandfather, he is still living, he is feeble in health, he is about 86 years old as he tells me his recollection as he claims is very bad, he says he cannot recollect 12 months back.

Objected to because irrelevant, immaterial, inadmissible and no reason in the world for asking the question.

Cross-ex amined.

Question 1. What interest have you in the result of this suit?

Ans. I don't know that I have any particular interest except my father is the defendant.

Ques. 2. Did you not state in your former deposition in this cause that the house and lot had been given to you?

Ans. I did state something to that effect.

The introduction of this witness and all his foregoing statements are excepted to because it now appears that he is interested and Phillip Roller is dead.

O. & B.

Were the four trees you speak of on the inside of the enclosed lot or outside.

Ans. three of them are or were on the inside of the present enclosure one the walnut was on the outside.

Ques. 4. How large was the walnut when it was cut and what was it cut for?

Ans. It was near two feet in diameter and part of it was used for sawing into lumber the residue for firewood.

Ques. 5. Where did the willow tree stand?

Ans. 5. On the west side of the lot, down near the spring branch.

Ques. 6. Where did the other two trees stand, the oaks?

Ans. 6. One stood down near the road within a rod of the road, the other one on the eastern side of the lot and about midway between the road and the upper side of the lot.

Ques. 7. Is the tight stump you speak of one of these oak stumps?

Ans. 7. No, it is a walnut stump. I piled the oak stump up.

Ques. 8. Did not Mr. Gobble cultivate the west side of the lot that you speak of as not having been cultivated in tobacco less than fifteen years ago?

Ans. 8. No, Sir, he did not. The tobacco was on Steve Tutt's land just below the stable, and it was on the inside of the fence as it now stands.

Re examined.

Ques. 1. Is there any timber still standing on that lot, if so what is it?

Ans. 1. There is a poplar, a red elm, a wild cherry, a weeping willow a black walnut, a number of apple trees, some ten or fifteen, and some

cherry trees. My father pl anted the apple trees there some twenty five or thirty years ago. They have been there every since I can remember. I don't know who planted them but I have always understood that my father did.

Re cross examined.

Ques. 1. Are the trees that you speak of leaving out the fruit trees, original forest trees, or such trees as usually grow up after land has been cleared.

Ans. 1. These grow around the spring and I don't know how long they have been there. The willow was about two feet and the others about one foot in diameter.

And futher this deponant saith not.

*Witness claims
One day .50¢*

E. L. Duff

*Adjourned to Sat. June 4th 1898
at the office of C. T. Duncan Jonesville Va*

J.M.Duff another witness of lawful age being duly sworn deposes and says

Ques. 1. Are you ~~and~~ defendant in this cause?

Ans. 1. I am.

The introduction ~~ad~~ this witness is objected to ~~as~~ ^{because he is} incompetent, ~~because~~ Phillip Roller the other original party to the tranaction is dead.
Orr & B.

Ques. 2. State your age residence and occupation?

Ans. 2. I am 53 years old, am a farmer and live on Wallen's Creek.

Ques. 3. Please state whether or not you ever said in the presence of F.M.Price to your grandfather Phillip Roller that you would see him in hell before you would show him a certain bond spoken of by Price?

Ans. 3. I have no recollection of ever intinating any such thing. I did not use profane language at that time.

Ques. 4. Did you at any time send William Lawson to procure for you a title bond or a right to the lot in controversy?

Ans. 4. I did not. I have no such recollection. I had no occasion to do any such thing. I had a conversation since the institution of this

suit in which Lawson said to me he knew nothing about the matters in controversy except that he thought that he had heard a conversation between myself and my grand father and the late A.R. Surgener at my grand Father's spring. I asked him if he remembered what my grand father said to me in the presence of A.R. Surgener; he said that he remembered a conversation that took place at grand father's spring in which my grand father said if A.R. Surgener's bond would not be taken in order to get Tom Ball out of jail at Abingdon that yours, James M. Duff's bond would be good that I owned land enough to make it good, and he specified the lower place and the house and lot as being land belonging to me. I wish to explain that this is what Lawson ^{said} ~~explained~~ to me and not what occurred. ~~Here the plaintiff insists that Mr. Duff's statement made~~

~~to him should be done to him~~ the conversation referred did not take place at ^{his} ~~my~~ grand father's spring but at ^{or near} ~~my~~ house, and he is mistaken as to the place.

The foregoing answer so far as it details what Lawson said that Mr. Roller stated is excepted to because inadmissible.

Orr & B. for plff.

Ques. 5. Please state whether or not you built the house now standing on the lot in controversy, if you answer that you did please state the year as nearly as you can?

This question is further excepted to and any others of a like kind because evidence in chief and not now admissible.

Orr & B. for Plff.

Ans. 5. I did build said house. I commenced it in the fall of 1866 and finished it in 1867.

Ques. 6. Please state who first moved into the house, who next and how long each one remained therein.

Ans. 6. ~~Mr.~~ I married Mr. Gobbles Daughter in Jan. 1867 and he Mr. Gobble moved into this house and me and my wife went to live with him. We remained together there about one year, then Mr. Gobble moved into a house and lot claimed by my father where I now live, and I remained in the house on the lot, and I remained in the new house for some time I can't tell exactly how long, but I think it was from ten to fifteen years, during that time Mr. Gobble cultivated portions of My grandfathers farm on the upper end.

Ques. 7. During the time that you lived in the house who claimed to be the owner of it and state whether or not you paid any rent and if so to whom.

+ all others of like kind are
The foregoing question ~~is~~ excepted to for reasons before given and for the further reason ~~that~~ *of being* ~~it is~~ self serving and inadmissible.
Or + Blanket for Plff.

Ans. 7. The lot was mine and I never paid rent to any body. I planted out and orchard on the lot putting the trees as thick as I thought they ought to be and cultivated such portions of it as I thought proper.

Ques. 8. Please state if you afterwards removed from that house who moved in after you what caused you to move away, and how long the person moving in after you remained on said lot

Ans. 8. While I lived at the other place I purchased the house and lot where my father lived and where I now live from my grand father Phillip Roller. There was where I was born and raised and I wanted to move back to it. As I have stated Mr. Gobble was my grand father's tenant, I could not complete this purchase without furnishing Mr. Gobble a house to live in to cultivate Mr. Rollers land, and as Mr. Gobble was my father-in-law I was very willing for him to move into my house, and Mr. Gobble remained in the house until about one year ago when my son Emmet married and I wanted Emmet to have the house and lot, and I procured an other house for Mr. Gobble to move into and he did move into it and still remains in it. When Mr. Gobble moved into to the house on the lot in ~~dispute~~ there was two other lots belonging to my grandfather near by under speerate fence, one known as the peach orchard lot and the other the lot on the north of the lot in dispute which I cleared, and for these ~~two~~ lots Mr. Gobble paid my grand father \$5.00 per year rent, he did not pay any rent for the house and lot belonging to me in which he lived.

Ques. 9. Please state if you know, about what time it was when Dr. Perkins lived and boarded at your grand father's?

Ans. 9. My recollection is that it was from 1871 up during ~~some time~~ about four years, maybe longer.

Ques. 10. Now please state if at the time Dr. Perkins lived there, there was any trees timber or fire wood upon this lot in dispute, if you answer that there was state when it was taken off and explain all

about it.

Ans. 10. When I first moved there there was a small lot enclosed by a fence, not so large however as the lot now in controversy. The fence ran up the branch~~h~~ and around the house and back down to the road, and while I lived there I cleared about two acres to the north of this lot which is one of the lots that Mr. Gobble paid rent on, I had no claim on that one. Some time in the year 1889 a notice was given to Mr. Gobble by my grand father to vacate his premises, my grand father was then an old man and not understanding exactly what he meant by it I took advice as to what I should do about my own lot. I was advised to put it under fence with timber used from my own land. I did so by running the fence about where I claimed the lot, to-wit; beginning at a black oak that stood down near the road I ran the fence from there northward nearly to a black walnut thence eastward to ~~####~~ a stake where the school house line now is, thence southward to the main road to where the school house now is at the main road thence with the road to the beginning, being where the fence now is and where it has ever since stood, except where a small stable stands which I will hereafter explain.

Ques. 11. Please state as nearly as you can the timber and character of timber if any, that stood inside of this fence at the time spoken of by Dr. Perkins and whether or not it has been since taken off and if so, when and by whom

Ans. 11. Yes sir, there was timber standing in it then, inside of the lot as now enclosed. A portion of ~~it~~ ^{which} that is now fenced I cleared myself. My recollection is that it was mostly oak timber, and there was some rail timber and some suitable for fire wood. We have taken up stumps on that land since my son moved there, and there are still appearances of stumps on the lot and some trees still standing - there is an elm now standing near the line that I am confident was standing when I moved there - It is near the west line and the spring. I planted the fruit trees as I now remember the next year after I moved there, and the fruit trees were planted at that time along with and near to the west line, running from the oak to the walnut, some of these trees are outside of the present fence, I planted them by guess

and I can't state whether they are over the line or not , they may be.

Ques. 12. State whether or not the whole of this lot has ever been plowed and cultivated

Ans. 12. I was born and raised where I now lived and I am acquainted with this place ever since I knew anything, and the lot has never all been plowed and cultivated, I don't think that more than two thirds of it has been plowed. At the southwest corner of this lot L.H.Gobble built a small stable on Phillip Roller's land. The corner of the stable stood against or nearly against what I have described as the beginning corner, and that is why the tree was cut down. L.H.Gobble run a fence around on Phillip Roller's land enclosing a small lot of land around the stable, and doing so he moved a few panels of my fence. It was this small lot near the stable and on Phillip Roller's side that L.H.Goble cultivate in tobacco, this tobacco patch was afterwards assigned to the heirs of Stephen Tutt. There is a part of the lot on the east side of the branch that has never been plowed and all on the west side.

Ques. 13. Please state whether or not L.H.Gobble is still living and if so, what is his age and mental condition?

~~Excluded~~ Excepted to because the evidence is immaterial, irrelevant and inadmissible.

Orr and Blankenship for plff.

Ans. 13. I am acquainted with him. He is still living - he is a very old man and says that his age is 86 years. I have talked with him about this matter and other things , he does not seem to have any recollection scarcely at all about matters, he will say that things appear to him like a dream and that he will not even swear that he ever lived in the house. His mind is such that I did not think, and I was so advised to not take his deposition in this matter.

Cross examined.

Ques. 1. Is not L.H.Gobble able to go about and does he not walk around in the neighborhood, & work some on the farm?

Ans. 1. He does. He works very little - just a few minutes at a time.

Ques. 2. Is not his physical condition as good as that of men generally of his age

Ans. 2. At times I expect it is. Some days he is able to get out a little and some days he is not.

Ques.3. Why did you not intröduce Mr. Gobble as a witness, and in that way ascertain what he knew?

Ans.3. I talked w ith him concerning it on different occasions to see if he remembered anything about it, and he told me he did not and could not do me any good or the plaintiff either. I afterwards talked with my counsel about and was advised not to intröduze him.

Ques.4. Did you not admit to Sam Lawson in your neighborhood since the institution of this suit that you did send Wm. Lawson to Phillip Roller to get Mr. Roller to give you a title bond to the house in controversy, or words to that effect?

Ans.4. No, sir, I did not. If it was ever mentioned in his presence I ~~ha~~ have any recollection of.

Ques.5. Do you remember the walnut stump spoken of by Emmet Duff in his deposition ?

Ans.5. Yes, sir, it is sta nding there now.

Ques.6. Where does it sta nd inside or out side of the lot as now enclosed?

Ans.6. It stands out side of the lot.

And futher this deponant saith not.

J. M. Duff

Virginia, Lee County to-wit:

I, W.A. Baker a Justice of the peace in and for asaid County do certify that the foregoing depodition of E.C. Duff, and J.M. Duff were taken sworn to and subscribed in my presence at the times and places mentioned in the caption and in sad depositions. Given under my hand this the 4th day of June 1898.

W. A. Baker

J. P.

J. C. Roller

vs. {

J. W. Duff

Deft. for Def.

Repositions of - Deft

E. C. Duff - \$.50

J. W. Duff.

W. C. Baker, J. P. 2 1/2 hrs. \$2.25

J. C. Roller, vs. J. M. Duff, et al.

-----The depositions of H. C. Joslyn, A. B. Murrey,
Samuel Frost A. E. Rutherford & S. A. Lockhart-
S. J. Lockhart

taken before me, W. A. Baker, a Justice of the
Peace, in & for Lee County, Va., pursuant to notice hereto attached, at the ^{Law office} ~~the~~
office of Orr & Blankenship, in the town of Jonesville, Lee County,
Virginia, on this the 7th day of April 1893, between the hours of
6 A. M. and 6. P. M., to be read as evidence on behalf of ~~xxx~~ J. C.
Roller, Plaintiff, in a certain suit in Chancery depending in the Cir-
cuit Court of said County and State, wherein J. C. Roller is Plaintiff,
and James M. Duff, ~~Ex~~ the unknown heirs of Barbara C. Tutt, deceased,
and Margaret Roller, are defendants.

Present: J. C. Roller, Plaintiff, and Orr & Blankenship, his Attorneys.
James M. Duff, and C. T. Duncan ^{+ A. L. Pridemore,} his Counsel.

H. C. Joslyn, being first duly sworn depose~~th~~ and saith as follows:-

Ques. 1. By Counsel for Plaintiff.

Please state whether or not you were one of the Commissioners
that partitioned the land of Phillip Roller, deceased ?

Answer. I was.

Ques. 2. State whither or not in that partition the lot of land
mentioned in the cause as having been occupied by Lilbourn H. Gobble,
and bounded by the Schoolhouse lot, and the lands assigned in said
partition to the Tutt ~~xxx~~ heirs, was partitioned or assigned by you and
the ~~Ex~~ other Commissioners in your said partition ?

Objected to because the report of said commissioners filed by them
in Court is the best evidence of what was done by the same--the records
being the highest and best evidence of the fact---Duncan & Pridemore ~~for~~
for Defendants.

Ans. My understanding was that we did not partition or assign the
lot that Mr. Gobble lived on to any body. Mr. James M. Duff claimed
that he had bought it and had a title bond for it-- I think it was a
title bond he claimed to have, any way he claimed some right to it,
and that is why we did not partition it.

Ques. 3. Will you please file with your deposition as part thereof

a certified copy of said partition and plat ?

Ans. I will as soon as furnished with a copy of the same--marked report and plat.

(It is here agreed by the parties that said copy of partition and plat may be filed hereafter.)

Ques. 4. Did James M. Duff produce any title bond on the occasion referred to for the lot of land above mentioned ?

Ans. No, Sir, I don't think he did---If I remember right he claimed that it was mislaid or lost.

And further this deponent saith not.

H. C. Joslyn

Witness claims--one day---.50c.

----A. B. Munsey, another witness of lawful age, being first duly sworn ^{deponent} and saith as follows:-

Ques. 1. Please state whether or not you were one of the Commissioners that partitioned the land of Phillip Roller, deceased ?

Ans. I was.

Ques. 2. State whether or not in that partition the lot of land mentioned in the cause as having been occupied by Lilbourn H. Gobble, and bounded by the Schoolhouse lot, and the land assigned in said partition to the Tutt heirs, was partitioned or assigned by you and the other Commissioners in your said partition ?

* Objected to because the report of said Commissioners is the best evidence of what they did, and any statement by them or either of them, which varies said report, or in any way changes or explains it is not admissible ~~as~~ evidence of any purpose--the record being the highest and best evidence. Duncan & Pridemore For Defendants.

Ans. Before looking at the report I thought probably it was, but since looking at the report I do not think it was.

Ques. 3. Please state if you remember why it was that said lot was not partitioned or assigned as the other land in your report mentioned?

Ans. My recollection is that Mr. Duff claimed that he had once had a title bond for it, and that the bond had been mislaid or lost.

Ques. 4. Will you please refer to and make a part of your ~~deposition~~ deposition the copy of the plat and report of partition filed with and made a part of H. C. Joslyn's deposition ?

Ans. I do and will make it a part of my deposition, as ~~xxxxxxxx~~ being a copy of our said report and plat of partition.

Cross-Examined.

Ques. 1. You state in answer to question 2, that before looking at the report of partition, that you thought said lot was included in the partition, but that since looking at said report you do not think it was, now, please state if said report mentions said lot at all?

Ans. It does not so far as I have looked over it.

Ques. Does not the boundaries of the lot of land laid off and assigned to the heirs of Barbara C. Tutt cover and embrace said lot of land, and is there any exception at all in the assignment made to said Tutt heirs?

Ans. The boundaries of the land assigned to Barbara C. Tutt's heirs does cover and embrace said lot, and I see no exceptions made in said assignemnt to said Tutt heirs--in said report. I mean the Tutt land surrounds the Gobble lot, and also the schoolhouse lot.

Ques. On the day of the partition did not the Commissioners request Mr. J. M. Duff and Andrew Roller to agree among themselves as to the line between them, and did not Mr. Duff point out a sycamore and ~~ix~~ indicate a straight line to the top of the mountain as the line that would be agreeable to him, and did not Mr. Roller refuse to agree to that ~~line~~ line and suggest that he would leave it to yourself and J. M. Tate, and did not you and J. M. Tate under that agreement move the line suggested by Mr. Duff about one rod on the Duff side, and run the line thence straight to the highest point on the mountain--indicating another sycamore to thus start from, and was not, ~~that~~ that last line adopted and agreed to by the parties--Duff and Roller?

Ans. My recollection is that the Commissioners did try to get them to agree to a line, and that they failed to agree, and ~~that~~ I am not positive whether they agreed to leave it to myself and Mr. Tate or to all the Commissioners, but I am positive that the Commissioners, or that myself and Mr. Tate did agree upon a line for them--starting at a ~~sycamore~~ sycamore and running in a straight line to the highest point on the mountain, and that they both agreed it should be the line.

Ques. After that did Mr. Roller make any complaint or objection to that line ~~xxxxx~~ thus established?

Ans. No, Sir, he never did to me.

Ques. By that line to whom did it leave the house ^{+ lot} now in controversy, on Roller's side or otherwise ?

Ans. It left it on Duff or Tutt heirs' side.

Re-Examined in Chief.

Ques. 1. You say you did not remember in regard to the lot of land until you looked at the report and plat, do you mean to say that the report and plat refreshed your recollection of what occurred ?

Ans. The lot that the house is situated on being laid off ~~in a~~ separate ~~plot~~ on the plat caused me to think we had not partitioned that.

Ques. Did you and the other Commissioners lay off the house and lot in controversy and the school house lot to the Tutt heirs ?

~~Amxx~~ Objected to for the same reasons stated heretofore--Duncan & Pridemore for Defendants.

Ans. I know we never laid off the school house lot to the Tutt heirs and as I now recollect we did not assign the lot in controversy to any one, as Mr. Duff claimed to have a title bond or had had one for it, we left that off.

Re-Cross-Examined.

Ques. I show you now the plot in case of partition spoken of by you, and ask you to look at a small shaded spot adjoining the school house lot, ~~kx~~ marked on said plot, " J. M. D. " and ask you to explain why these letters " J. M. D. " was placed upon that spot ?

Ans. I don't know that I could tell you.

And further this deponent does not say.

A. B. Munsey

Witness claims one day--50c.

Samuel Frost, another witness of lawful age, being first duly sworn deposeseth and saith as follows:-

Ques. 1. Are you acquainted with the defendant, James M. Duff, and were you acquainted with Phillip Roller, deceased, in his lifetime ?

~~xxxxAmxx~~ And are you acquainted with the house and lot in controversy?

Ans. I am acquainted with James M. Duff, and also knew Phillip Roller in his lifetime--and I am acquainted with the house and lot in controversy. I live in that neighborhood and have lived there for about ~~about 27 years~~
1

27 years, *7 on the Roller farm about 19 yrs.*

Ques. Did you ever have a conversation with Phillip Roller in reference to said house and lot and ⁱⁿ reference to Mr. J. M. Duff claiming to have a title bond for the same from Mr. Roller--if so, when and xxx where was it and what did he say, and who was present?

The foregoing question and any answer thereto is objected to as evidence because the statements of the said Phillip Roller, if any were made asserting ownership to the said property are self serving and therefore the answer to the question would be immaterial and irrelevant and in no way binding upon the defendant--J. M. Duff--Duncan for, etc.

Ans. I was at Phillip Roller's house, and he asked me if I had ever heard of Mr. Duff having a title bond on him for a deed to that house and lot--I told him that I had not--He said he never gave such a bond to his best recollection. This was some little time before Mr. Roller died--probably some three or four years--no one was present except myself and Mr. Roller. Mr. Roller said if Duff had such a bond and would bring it up with his signature in his hand write that he would make him a deed.

Qx Ques. Did you at any time after this have a conversation with Mr. Duff in regard to the matter in which you informed him of what Mr. Roller had said, and if so, what was said on that occasion?

Ans. Some time after I had had the conversation with Mr. Roller Mr. Duff told me that he had ~~a~~ title bond on his grand dady for a deed to that house and lot where Mr. Gobble lived---as well as I remember my answer to Mr. Duff was that there seemed to be a misunderstanding between him and his Grand Father. I can't remember whether there was anything further said or not. I do not remember how long this was before Mr. Roller's death.

~~XXXXXXXX~~

Ques. From your knowledge of the house and lot in controversy, do you think the same could be conveniently partitioned, if there are several interests, or different interests in the same?

ANXX Or would it be more advisable to sell it and divide the proceeds?

Ans. I have not much idea, as I do not know how the lines run around it.

Cross-Examined.

Ques. Who built the house that is situated on said lot ?

Ans. I do not know--it was built there when I first knew it.

Ques. Who was living in it when you first knew the house ?

Ans. Mr. James M. Duff, which was about 27 years ago.

Ques. Who was ~~living~~ living in that house at the time Phillip Roller had the conversation with you that you have detailed above ?

Ans. Mr. Gobble, I think.

Ques. What relationship, if any, existed between Mr. Gobble and Mr. Duff ?

Ans. Mr. Gobble was Mr. Duff's father-in-law.

~~-----XX~~

Re-Examined in Chief.

Ques. 1. Did you ever know of Mr. Roller renting the house and lot to any one, and if so, to whom ?

Ans. I do not know that I ever heard any contract between him and ~~any~~ any one--Mr. Gobble paid rent to Mr. Phillip Roller.

Re-Cross-Examined.

Ques. What sort of rent did Mr. Gobble pay to Mr. Roller ?

Ans. He paid him corn, and perhaps wheat--I just remember seeing the old man Gobble hauling corn there--

Ques. Mr. Gobble cultivated lands on Phillip Roller's farm, did he not ?

Ans. Yes, Sir.

Ques. Did you ever know of Mr. Gobble paying Mr. Roller any rent on said house and lot ?

Ans. I do not.

And further this deponent saith not.

Witness claims one day--50c.

his
Samuel Frost-
Mark

E.

Alexander Rutherford, another witness being duly sworn deposeth and saith:-

Ques. 1. Are you acquainted with James M. Duff; and were you acquainted with Phillip Roller in his lifetime, and do you know the house and lot in controversy.

Ans. I am acquainted with said Duff, I knew Phillip Roller in his lifetime and I am acquainted with the the house and lot.

Ques.2. Did you ever know Mr. Roller to rent the house and lot in controversy, if so to whom and when was it, and tell all you may know about it?

Ans. I never heard any contract of renting between Mr. Roller and any person in reference to said house and lot, his statements to me and Mr. Duff is all I know about it. Mr. Roller stated that he had rented both houses on the upper end of the farm and the upper end of his farm to J James M. Duff, ~~Mzz~~ The Gobble house was one of the houses that Mr. Roller was talking about. Mr. Duff afterwards rented the Gobble house and some of the land to my brother John Rutherford, John gave out the notion of moving there and wanted me to take his contract and cultivate the land I went to see Mr. Duff about it, he said it would be all right with him if it was with his grandfather, and said we would go and see him, we went and saw Mr. Roller, and he said it was all right with him for me to cultivate the land, I told Mr. Roller I had no use for the house that Mr. Gobble lived in, only for Mr. Gobble and his wife to stay there, I do not remember the time accurately but think I can fix the time by reference to some papers which I have at home, I will examine these papers and if I can fix the date, I will furnish the same to the justice to be inserted as a part of this answer. *Date furnished, last of February Mr 1890.*

Mr. Roller also stated that he had given Mr. ~~Gobble~~ notice to give possession of said house to him, it was then that I told him I did not need the house only as above stated. I cultivated some of said land that year

So much of the foregoing answer as undertakes to detail statements made by Phillip Roller is objected to because self serving inadmissible and immaterial.

Duncan for Deft.

Ques.3. Did you ever hear a conversation between Mr. Roller and Mr. Duff in reference to a title bond which Mr. Duff claimed to hold on Mr. Roller for the house and lot in controversy, if so when and where was it, and what was said between them?

Ans. I heard a conversation between them in reference to said title bond, it was at Phillip Roller's house, but I can't fix the date with any certainty, it was after the renting above spoken of and was perhaps one or two years before Mr. Roller's death, I was sitting on Roller's porch and Mr.

Mr. Duff came by in his hack and 3

Mr. Roller went out to his yard gate called to Mr. Duff and stopped him in the road, they talked awhile about this title bond, Mr. Roller told Mr Duff that if he would show him a title bond for that acre of land with his signature to it in his handwriting that he would deed it to him. Mr Duff answered that he would not let him see it or something to that amount. Mr. Roller said he had not executed any such bond. I do not remember that Mr. Duff said anything in reply to this.

Cross--Examined.

Ques. 1. How long have you known the house and lot in controversy ?

Ans. I have been living in the neighborhood about 33 years, and the house was put up after I moved to the neighborhood, but I do not now remember just how long.

Ques. Who built said house ?

Ans. James Duff built it or had it done.

Ques. Did Mr. Duff plant orchards or put any other improvements on said lot, if so, state to what extent ?

Ans. I do not know. There are a few apple trees there, but I do not know who put them there.

Ques. Did Mr. Roller in presence of Mr. Duff tell you that he had rented to Mr. Duff the two houses on the upper end of his place, and the upper end of his farm ?

Ans. He did.

Ques. What two houses were those ?

Ans. The house that Gobble lived in and the house that Lockhart lived in.

Ques. Where did that conversation occur ?

Ans. At Phillip Roller's. And ~~xxx xxxxxxxxxxxxxxxxxxxxxxx~~ was the same time that I went there with Mr. Duff to see Mr. Roller if he was willing for me to cultivate the land.

Ques. Mr. Gobble had been renting lands for cultivation from Mr. Roller prior to this time had he not ?

Ans. He had.

Ques. Did the notice which Mr. Roller claimed to have given Mr. Gobble apply to that land or to said house and lot, or do you know to what the said notice did apply ?

Ans. I do not know.

Ques. In the conversation that you have stated you heard between Mr Duff and Mr. Roller did not Mr. Duff claim that he had a title bond from Mr. Roller for that acre of land on which said house stands ?

Ans. He did not in my presence.

Ques. What did Mr. Duff say about the title bond, if anything ?

Ans. Not anything in my presence.

Ques. Then what did you mean by that part of your answer to Judge Orr's question in which you used this language " Mr. Duff answered that he would not let him see it " meaning the title bond, or something to that amount.

Ans. I did not understand the time you asked me--I thought you had reference to the time ~~xxx~~ we went to see about the renting. Mr. Duff in the conversation of which I have spoken as occurring ~~xx~~ when Mr. ~~Rox~~ Roller went out to the road Mr. Duff ^{gib} claimed he had a title bond ~~for said land~~.

Ques. Did not Mr. Duff further claim in that conversation that the title bond was lost, and that he could not produce it ?

Ans. I think not.

Ques. How close were you to the parties ?

Ans Only a few ~~steps~~ away--perhaps twenty-five yards from where Mr Duff was in the road.

Ques. Were they talking loud in an angry way, or how ?

Ans. They were talking loud.

Re-Examined in Chief.

Ques. Did you ever hear Mr. Duff's wife apply to Mr. Roller to rent this land ?

The foregoing question is objected to because any thing done by Mr. Duff's wife in no way binds him--Duncan, for Deft.

Ans. I did. This was before I rented it, but do not know how long--Mr. Gobble was living in the house at the time.

And further this deponent does not say.

2 days 100
Witness claims one day 50c.

A. E. Rutherford

Suire J. Lockhart another witness of lawful age being sworn deposes and says.

II am acquainted with J.M.Duff, I knew Phillip Roller in his lifetime I live in about one and one half miles from the house and lot in dispute
Ques. 2. Did you at anytime serve or deliver a notice from Phillip Roller to L.H.Gobble, and if so when was it and what was the purpose of said notice?

Any answer to the latter part of said question that is the purpose of it is objected to as evidence because if the notice was in writing it is itself the best evidence of its contents and purpose.

Duncan for Deft.

Ans. I did serve notice on Mr. Gobble, this was about June 20th 1839, and I file herewith as part of my answer a copy of the notice which I delivered to Mr. Gobble marked "Notice" I do not remember giving him a copy of said notice but think I just went to him and read him the notice here filed.

Ques. Where was Mr. Gobble then living?

Ans. He was living then in the house and on the lot here in dispute and where Emmet Duff now lives.

Ques. Did you ever hear Phillip Roller say anything about the title bond that Mr. Duff claimed to have on him for said house and lot? And if so, when was it, and what did he say about it?

The foregoing question and any answer to it is objectionable because the statements made by Phillip Roller are self serving and not admissible as evidence against this defendant--Duncan, for etc.

Ans. I ^{can} not remember exactly when it was--but think it was not far from the time I served the notice--I heard Mr. Phillip Roller say he had never executed any title bond to Mr. Duff--think I have heard him say this more than once--some two or three times. This was about his house that I heard him talk.

Cross-Examined.

Ques. How long have you been acquainted with said lot and the house there on, who built the house, and how long has it been built?

Ans. I have been acquainted with said house and lot some 28 or 30 years--ever since it has been built--James Duff built it ^{at 9 years}--I saw him work--

ing at it anyway.

Ques. Did J. M. Duff build the house before or after he was married?

Ans. My recollection is that he built the house a very short time after he was married.

Ques. Who was the first person that ever lived in said house, and ~~how~~ how long did that person continue to live in it, and how long did the person who succeeded that person live in said house and who next moved into it?

Ans. I am not certain which lived in it first--James Duff or Mr. Gobble--if Duff was the first person I do not think he lived there very long, and Mr. Gobble lived in said house I suppose some 25 years--the next person, as I remember to live in said house--was Emmett Duff, who lives there now, and who moved there I presume something like one x year ago.

Ques. By way of refreshing your memory did not J. M. Duff and L. H. Gobble move into said house together--did not Mr. Gobble remain with Mr. Duff one year, or about that time--then did he not move out down to the house where Mr. Duff now lives--and did not Mr. Duff remain in the house in dispute for more than ten years--and until after he had bought from Mr. Roller the house and lot where he now lives?

Ans. I do not know--I don't remember which went there first, or just how that was, nor I do not remember how long James Duff stayed there, but they did change places, but I do not remember how it was.

Ques. While Mr. Duff was living in said house did you ever hear him set up any claim to it, or state how he was living there?

~~Ans.~~ Objected to because self serving, and if not in the presence of Phillip Roller not admissible--Orr & Blankenship, for Plaintiff.

Ans. I never did. All the claim I ever heard was something James ~~Duff~~ Duff said about it while he was building the house--there was some ~~agreement~~ agreement as he said about it between him and his Grand Father, Phillip Roller, but I do not now remember how he said it was. Roller was not present when this statement was made to me by Duff.

And further this deponent does not say.

S. J. Lockhart

Witness claims one day--50c.

L H Goble
Served June
the 27th / 89

"Notices"
filed with C.F.
Lockhart's Dep-
osition

Alb. L. H. Goble

As you having been my tenant for
a number of years last past notice is hereby given
you that you must surrender to me all the
premises you now occupy within six months from
this date and upon your failure to so surrender
the same to me.

Suit will be instituted to secure the possession
thereof

Truly yours

Phillip Roller

June 20th 1889

S. A. Lockhart, another witness being first duly sworn deposes and saith as follows:

Ques. 1. Did you ever hear Phillip Roller say anything about a title bond claimed by Mr. J. M. Duff for the house and lot in controversy, if so, when and where was it, and what did he say about it?

~~Ans.~~ Objected to because the statements of Phillip Roller in reference to said title bond are hearsay, self serving and not admissible as evidence---Duncan, for, etc.

Ans. I heard Mr. Roller and Mr. Duff talking about it in a ~~conver-~~ conversation one day along the road side near Mr. Roller's house, but I do not remember the exact time--it was while I lived on Mr. Roller's place and I think it was in the year 1838--it might have been in 1839, or may have been a little earlier--I was at work and Mr. Roller there where I was at work--and Mr. Duff came along--and one or the other--I do not remember which--said something about the title bond--and in talking about it Mr. Roller told him he never gave him any title bond--and Mr. Duff told him he did, or at least he told him he had one, I do not remeber which Mr. Duff said--Mr. Roller told him if he had a title bond with his signature to it in his handwriting ~~that~~ and bring it down and let him see it, he would make him a deed to it, and Mr. Duff remarked to him he could, or he would at the proper time. Mr. Duff kept telling him that he had one--and Mr. Roller said he never ~~gave~~ gave one that he ever recollected of. This was all the conversation I remember of ever hearing between them--I heard Mr. Roller say at other times if he ever gave Mr. Duff a title bond he had no recollection of it.

Cross-Examined.

Ques. Who built the house on said lot and how long has it been built, and what other improvements was put upon the lot beside the house?

Ans. I don't know, but suppose Mr. Duff did--there are some apple trees on it, but I do not know who put them there--it is enclosed by a fence but I do not know who put it there. I do not know how long the house has been built, but I was a small boy--think it was perhaps some 25 or 28 years ago, that I saw Mr. Duff working on it--I am 35 years old now.

Ques. Did you ever hear Mr. Roller at any other time prior to the conversation, which you heard between him and Mr. Duff in reference to said title bond, say anything about said lot ?

Ans. I don't remember that I ever did.

Ques. Did you ever hear him say that said lot belonged to said Duff?

Ans. I never did.

Ques. What was the age of Mr. Roller at the time you heard the conversation between him and Mr. Duff in reference to said title bond ?

Was he not then a very old man ?

Ans. He was a very old man--don't know his age.

Ques. Was the conversation an angry or a friendly one ?

Ans. They were talking very boisterous and seemed to be a little angry.

Ques. While James M. Duff was living in said house, did you ever hear him say anything about his title to it, or how he was living in it and if so, state what he said ?

Objected to because self serving unless in the presence of Mr. Roller--Orr & Blankenship, for Plaintiff.

Ans. Never heard him say anything about it.

Re-Examined in Chief.

Ques. Do you know on whose land Mr. Duff built said house, or how he happened to build it ?

Ans. I do not know only as I was told--that it was Mr. Roller's land and I do not know how he happened to build it.

Ques. Did you ever hear Mr. Roller say that the house and lot belonged to him?

Objected to because hearsay, self serving and not evidence-----
Duncan, for, etc.

Ans. Yes, Sir, I have heard him say it was his.

Ques. Did you ever know of his renting it, or exercising other acts of control over it, if so what were they ?

Ans. I do not know of his renting it--only have heard he rented it.

Persons that lived there rented land to tend of Mr. Roller--
Mt. Gobble did.

Ques. You say that Mr. Roller at the time of the conversation between him and Mr. Duff about the title bond was an old man--was he or not?

not at that time in his right mind, and did he seem to have as strong a mind as men usually have at his age at that time?

Ans. I suppose it was his right mind, but he claimed to be very forgetful at that time. He seemed to know what he was talking about.

Ques. What seemed to make Mr. Roller angry at the time, if anything?

Ans. I don't know unless it was Mr. Duff telling him that he had a title bond--he was talking very loud--he generally talked very loud.

Re-Cross-Examined.

Ques. Who was living in the house on said lot when you heard Phillip Roller say it was his?

Ans. L. H. Gobble.

And further this deponent does not say.

J. A. Lockhart

Witness claims one day--50c.

H.C. Joslyn being reintroduced by the Plaintiff deposes and says:

Question 1. please state from your knowledge of the lot of land in controversy and house there on you think the same could be conveniently partitioned, or would it be more advisable to sell the same and divide the proceeds between the parties interested?

Ans. I do not think it could be very well partitioned but think if there are different persons interested in it that it would be more advantaged to sell it and divide the proceeds.

And further this deponent saith not.

H. C. Joslyn

Virginia, Lee County, to-wit:-

The further taking of depositions in this case is adjourned to Duff's School House, on Wallen's Creek, on the 12th day of April 1893, between the hours of 6 A. M. and 6 P. M. This April 7th 1893.

N. A. Barker J.P.

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The depositions of John B. Lawson, T.J. Ball, F.M. Price, William Lawson ~~Lawrence Ball and William Lambert~~ taken at the Office of C.T. Duncan pursuant to agreement, on the 30th day of May 1898, before ^{H.C. Jolly} ~~W.A. Baker~~ a justice of said County, which depositions are intended to be read as evidence in rebuttal on behalf of the Plaintiffs in a certain chancery cause now pending in the circuit court of Lee County Virginia, in which Claiborne Roller is Plaintiff and J.M. Duff is defendant.

Present Plaintiff and his counsel and Defendant and his counsel John B. Lawson a witness of lawful age being duly sworn deposes & says.

Ques. 1. please state your age, residence and occupation?

Ans. I am 36 years old live on Wallens creek and I am a farmer.

Ques. 2. Please state whether or not you are acquainted with J.M. Duff and L.H. Gobble, and did you know Phillip Roller in his lifetime.

Ans. I am acquainted with said Duff and Gobble and I knew Mr. Roller in his lifetime.

Ques. 3. Are you acquainted with the house and lot in dispute?

Ans. I am.

Ques. 4. Who lived in said house when you first knew it?

The foregoing question and any answer thereto is objected to because if it is evidence at all it is evidence in chief, this question as to who lived in said house having been heretofore gone into by the Plaintiff and the inquiry prosecuted as far as he desired.

Pridemore & Duncan for Deft.

Ans. I think J.M. Duff lived in it when I first knew it.

Ques. Please state if you know how long said Duff lived in said house and who occupied it after he moved out?

objected to for the same reason stated above.

Pridemore & Duncan.

Ans. I do not remember how long Mr. Duff lived in said house, and according to my recollection, Mr. Gobble lived in it next and continued to live there until something like one year ago.

Ques. 5. Please state what relation you are if any, to L.H. Gobble and whether or not you lived with him any during the time he occupied said house and lot and if you answer you did please state how long?

Ans. I am a grand son of L.H. Gobble, I lived with him six years while he was living in said house.

Ques.6. Please state if you know from whom your grandfather, L.H. Gobble rented said lot and to whom he paid his rent and how much?

Objected to for the same reasons stated above.

Pridemore & Duncan.

Ans. He rented of Phillip Roller, he paid his rent to Mr. Roller I do not know whether this renting was of this particular house or the the lot below the house, my recollection is that five dollars was the amount paid. I guess the lot below the house has 5 acres in it.

Ans. Did he rent other lands from Mr. Roller, if so where were they situated and were these other lands under a separate contract from this above spoken of by you?

Objected to for the reasons stated above and because said question is irrelevant and immaterial.

Duncan & Pridemore for Deft.

Ans. He rented some on the side of the mountain, and my recollection is that he rented said 1 and separately from the other.

Ques. Please state whether or not Mr. Gobble lived in the house when he rented the lot below the house, now in dispute?

Ans. Yes Sir:-

Ques. Please state whether or not at any time, you remember of Mr. Roller charging Mr. Gobble extra rent for the house and lot in dispute, and if you answer that he did please state why, if you know?

Objected to for reasons stated above

Duncan & Pridemore for Deft.

Ans. The lot below the house that Mr. Gobble lived in was a peach orchard and one year it had a fine crop of peaches on it, and that year Mr. Roller charged extra rent for it.

Ques. Please state if you know anything about Mr. Roller giving to Mr. Gobble a notice to give up said house and lot?

Objected to for the same reasons stated above and for the further reason that no such notice is shown.

Pridemore & Duncan for Deft.

Ans. I heard Mr. Gobble say that he had got a notice from Mr. Roller to give him possession but I do not know to what it referred, whether to the house and lot where he then lived, the lot below the house or the la

land on the side of the mountain.

Cross-Examined.

Ques. 1. After getting said notice what did Mr. Gobble do, did he give up possession to Mr. Roller of said land if so what?

Ans. He gave up the land on the mountain and the lot below the house. He continued to live on in the house where he was then living, which is the house in dispute. And he still lived there until about one year ago as I have stated above.

Ques. 2. Was there not another lot above the house in which Mr. Gobble lived that belonged to Mr. Roller and which Mr. Gobble used?

Ans. There was. There was some two or three acres in this lot, I don't know whether this lot was included in the five dollar contract or not.

And further this deponent saith not.

*Witness claims
1 day 50 cts*

J B Gaudon

T.J. Ball, another witness of lawful age being duly sworn deposes and say

Ques. 1. Please state your age, occupation and place of residence.

Ans. 1. I am 60 years old, live on Powell river and am a farmer ~~by trade~~

Ques. 2. Please state whether or not you are acquainted with the house and lot here in dispute and if you answer that you are state how long you have known said house and lot, and were you acquainted with Phillip Roller in his life time?

Ans. 2. I know said house and lot, I was raised in a mile and a half of it, I have known it ever since the house was built on it. I was acquainted with Phillip Roller, raised in one and a half miles of him and knew him all my life up to the time of his death except seven years before the war when I was away from this country, and during the war. He was my brother-in-law and I was intimately acquainted with him.

Ques. 3. Do you know William Ball.

Ans. 3. Yes, Sir.

Ques. 4. Please state whether or not since the institution of this ^{*williams*} suit and over in your neighborhood you ever heard Mr. Ball say that he did not know anything about the matter here in dispute, except what

James M. Duff told him, or words to that effect? *Stats who was present + all that he said about it?*

The foregoing question is objected to because no proper foundation was laid for asking the same.

Pridemore & Duncan.

Ans. 4. About one month and a half ago at my house I heard Wm. Ball say that he did not know anything about the matters indispute in regard to the house and lot, except what James M. Duff had told him. My wife Mrs. Put Lockheart and Lawrence Ball my son were present. I asked him if he had been over to town to have his deposition taken, he answered no, I know nothing to ~~taken~~ have my deposition taken about. I asked him if was ever present when there was any writings transacted, and he said that he never saw any done or saw any paper or anything of the kind.

Ques. 5. Is there any fire wood on the lot here in dispute?

~~Ques.~~ Objected to because immaterial.

Pridmore & Duncan.

Ans. 5. There is not unless it is an apple or shade tree.

Ques. 6. How long has it been since there was any fire wood on this lot except what was hauled or carried on it.

Ans. 6. When I was twelve years Dr. Miller taught school there, there was no ne on it then, unless it was a big oak tree that stood down about the stable which I do not know was on this lot or not.

Ques. 7. State whether or not you ever informed Phillip Roller that Mr. Duff claimed that he was to make him a deed to this house and lot, and if so state what Mr. Roller said about it.

Objected to because immaterial and irrellevant and because if it is evidence at all it is evidence in chief, and for the futher reason that an inquiry of the like kind has heretofore been gone into and pressed as far as the plaintiff saw proper.

Pridemore & Duncan.

Ans. 7. I heard Mr. Duff say that Mr. Roller was to make him a deed to the house and lot and I told Mr. Roller what he had said. Mr. Roller said he had never promised no such a thing.

Ques. 8. State whether or not the wife of James M. Duff at any time applied to Mr. Roller in your presence, to rent the house and lot in controversy for her father and mother, L.H. Gobble and wife, and if so what was said between her and Mr. Roller, and when it was?

Objected to because immaterial and irrellavant. Mr Duff could in no way be bound by any statement made by his wife or by any effort on her part to rent property and because said answer if it could be answered

and was evidence would be evidence in chief.

Pridemore & Duncan.

Ans. 8. She did. Mr. Roller was sick and in the bed and I was at his house and Mrs. Duff came there and applied to Mr. Roller to rent the house for her father and mother, stating that her mother was old and did not want to move out. Mr. Roller replied that he felt too bad to talk to her and that he would see her at some other time.

Ques. 9. Did you at this or any other time hear Mr. Roller state that he had noticed Mr. Gobble to move out of the house in controversy, if so state what he said and when and where it was?

The foregoing question is objected to because if Mr. Duff was not present it is irrelevant what Mr. Roller said. Besides the notice is alleged to be in writing, it is therefore the highest and best evidence.
Pridemore & Duncan.

Ans. 9. It was at his own house, that he told me he had noticed the old man to get out. This was before Mrs. Duff came to Mr. Roller trying to rent the house for her father and mother.

Cross-Examined

Ques. 1. You speak of a house and lot, please give the boundaries of the lot claimed by James M. Duff?

Ans. The line on the road side runs along the road, then runs north about 100 yards I suppose or something like that, then it runs out above the house, then it runs slanting back down ~~thence~~ to the road

Ques. 2. Do you know any tree or other marked object that constitutes a corner of this lot?

Ans. I do not.

Ques. 3. Who showed you the boundaries of this lot, when did they show them to you and for what purpose?

Ans. Mr. Emmett Duff is all the one that ever told me anything about the boundaries of the lot and he told me the fence was on the lines.

Ques. 4. About how old is Emmet Duff.

And I do not know his age but suppose him to be about 25 years old.

Ques. 5. Then he was not born when Dr. Miller taught school there was he?

Ans. No Sir:-

Ques. 6. Do I understand you to say that the lot as now fenced on which Emmett Duff now lives.

now lives, had no timber suitable for firewood upon it when Dr. Miller taught school there?

Ans. It had none at all unless the oak above spoken of was on it or unless it was a shade tree or fruit tree.

Ques. 7 Was it then fenced as it is now fenced.

Ans. No Sir.

Ques. 8. Who put the fence where it now stands?

Ans. James M. Duff and his sons.

Ques. 9. Did James M. Duff build a house on this land or not.

Ans. I can not tell, I was not at the raising of said house.

Ques. 10. You say you have lived in the neighborhood all the time could a house have been built on said lot without your knowing who did it?

Ans. Yes Sir.

Ques. 11. Did Dr. Miller teach school in the house that is there now?

Ans. No Sir.

Ques. 12. Who first lived in the house that is there now?

Ans. James M. Duff.

Ques. 13. Are you not mistaken did not Mr. L.H. Gobble first live in said house and did not Mr. ~~ZZZZZZZZZZ~~ Duff move into said house with him?

Ans. I think not sir.

Ques. 14 How long did James M. Duff live in said house?

Ans. I do not know, He must have lived there five or six years and it may be longer.

Ques. 15. Who moved into it next after Duff moved out?

Ans. I do not remember.

Ques. 16. Was it not L.H. Gobble?

Ans. I can not say whether he was the next one that came in or not.

Ques. 17. Do you know of any other person except L.H. Gobble living in a said house after Duff moved out?

Ans. I do not.

Ques. 18. Did not L.H. Gobble live in that house for many years before the death of Phillip Roller, was he not living there at the time Phillip Roller died, and did he not continue to live there after Mr. Roller died and up to about one year ago?

Ans. He lived there before Mr. Roller died, he was living there at the

time of Roller's death and he continued to live there until a little over one year ago.

Ques. 19. I will ask you if you know the boundary of the lot that James M. Duff claims Phillip Roller was to make him a deed for, I mean the boundary as pointed out by Phillip Roller, or do you only speak of the lot as fenced?

Ans. I speak of the lot as fenced.

Ques. 20 Can you speak whether or not the lot pointed out by Phillip R Roller to Br. Perkins and others has never had any fire wood upon it since you were 12 years of age?

Ans. I do not know what lot Phillip Roller pointed out to Dr. Perkins and others, I was not there when he pointed out said lot.

Ques. 21. Do you not know it as a fact that James M. Duff cleared and took timber off of this lot that is now under fence and cut down other timber on said lot up near a small stable of his on the edge of said lot next the church?

Ans. No Sir I do not, I know that as a matter of fact that there has been no timber on said lot since I was 12 years old.

Ques. 22. Do you not know it as a fact that there stands on that lot to day and inside the fence, a number of stumps from which trees and timber have been cut in the last few years, stumps that are now well rotted?

Ans. I do not.

Ques. 23. How long has it been since you looked over said lot to see if there were any stumps upon it?

Ans. I ~~looked over~~ never looked for stumps upon it, I worked on it for old Mr. Gobble over a year ago.

Ques 24. State if you worked over the entire lot or if not what portion you did work over?

Ans. I worked over the entire lot except a little patch up next the school house which he did not have broken as it was thin.

Ques. 25. What relation is Wm. Ball to you?

Ans. A brother.

Ques. 26. What reason had you for enquiring so closely of him what he knew about this case?

Ans. Henry Fergerson sent me to him, ~~in~~ was the first time, he, Fergerson, was attending to old Mrs. Roller's business, and was going to bring suit, for her part of a \$100.00 note that James M. Duff owed to his grandady, and was going to bring ~~there~~ her interest in this lot in with the other.

Ques. I speak of the inquiries that you made of Wm. Ball at your house ?

Ans. I ~~ask~~ ask him to know if he would state the same thing now that he did the first time.

Ques. What did you want to know that for ?

Ans. I had heard that he was making a different statement to what he made to me, and was denying what he said to me.

Ques. Who did you first tell what Wm. Ball had told you at y_our house?

Ans. I do not remember whether it was to Mr. Fergerson or the old man Lambert---I talked to both of them .

Ques. Who did you tell next about it?

Ans. I do not remember.

Ques. How long was it after that conversation until you told Claibe Roller about it ?

Ans. It was not but a few days until me and Claib was talking about it.

Ques. Where was that at, was it at yo our house or at Claibe's?

Ans. I do not remember where it was /at, but it was not at my house.

Ques. Who commenced the conversation about what Wm. Ball said, you or Claib?

Ans. I do not remember, but I believe I did.

Ques. What did you do that for?

Ans. I had told Claib at one time that Wm. Ball did not know anything about it. And I think Claib ^{had told me what} ~~what~~ Wm. Ball had sworn.

Ques. Then at the time you told Clab what Wm. Ball said, Wm. Ball had already been so sworn as a witness according to what Mr. Roller ~~said~~ said.

Ans. Yes, Sir.

Ques. Now, state the ~~time~~ time as near as you can when Wm. Ball had this conversation at your house ?

Ans. It was about one month ~~of~~ one month and a half ~~ago~~ ago.

Ques. How long was it after Wm. Ball ~~xx~~ had said conversation 'till you told Claib Roller about it ?

Ans. I do not remember. I was a few days and perhaps as much as a week.

Ques. Have you not been taking a very great interest in this suit against James M. Duff?

Ans. I have not.

Ques. Did you not tell John Pendegrass at his house on last Saturday evening in this county that you were coming over to town to day to set aside Wm. Ball's evidence ?

Ans. I told Mr. Pendegrass last Saturday evening, but not at his house but in the road the other side of his house, ~~xx~~ about Dr. Perkins' statement in regard to getting wood off of the lot in controversy, or that the old man Roller had ~~xx~~ cautioned him not to get wood off of the lot in controversy, and something was said about what Wm. Ball had stated about the case; and I did not tell John Pendegrass that I was coming over to town to day to set aside Wm. Ball's evidence. I said to Mr. P. that Claib would have to weaken ~~xx~~ the testimony of Dr. Perkins and Wm. Ball or he might loose his case. We were talking about the way the case was going,

~~Re-Examined~~

----And further this deponent saith not.

*Witness claims
1 day 50 cts.*

J J Ball

William Lawson another witness being duly sworn deposes & says.

Ques. 1. Please state your age residence and occupation?

Ans. I am 52 years old, reside on Powell's river farmer.

Ques. 2. Are you acquainted with J. M. Duff and did you know Phillip Roller in his lifetime

Ans. I am acquainted with said Duff and I knew Phillip Roller all my life. I lived in that neighborhood two or three years, lived with L.H. Gobble one year when he lived in the house that J.M. Duff now lives in.

Ques. 3. Are you acquainted with the house and lot in controversy in this suit, that is the house where Emmett Duff now lives?

Ans. I am . I helped raise the house on said lot.

Ques. 4 State whether or not J.M. Duff at any time sent you to Phillip Roller

to see if he would give him a title bond for said house and lot, and if so tell when it was and what Mr. Roller said about the matter.

Objected to because anything that Phillip Roller may have said about it is self serving and inadmissible and for the further reason that if this is evidence at all it is evidence in chief

Pridemore & Duncan.

Ans. Mr. Duff asked me to ask his grandfather if he was going to fix that title bond up right straight, I saw Mr. Roller he said if Jimmie would go on and do right it would be his any way to go on and fix up his house, after that several years I went back again at J.M. Duff's request and told him that I wanted that title bond he said he had been troubled about the one that was sold and he did not know that he would give him one unless it was all bought. He said he was going to quit scraping off corners as there had already been one sold from him. And that he did not intend to cut off or sell any more unless a man bought it all.

Ques. 4 state whether or not Mr. Duff directed you, if you could not get a title bond to see if you could purchase the house and lot and if so at what price, and if this occurred state what Mr. Roller said?

Objected to for the same reasons stated above.

Pridemore & Duncan.

Ans. He did not direct me to try to buy it. I did ask Mr. Roller if he would sell said house and lot and he answered me as I have above stated

Ques. 5. State whether or not you know of L.H. Gobble renting said house and lot, and if so from whom, and to whom did he pay rent and when was it

Objected because immaterial and irrelevent and if evidence it is in chief.

Duncan & Pridemore.

Ans. I do know of L. H. Gobble renting said house and lot, and he rented it from Phillip Roller--he paid rent to Phillip Roller--I can not tell the years, but it was for about 15 years or more.

Ques. State whether or not the lot spoken of had any timber on it ~~xxx~~ since the year 1870, for firewood and other purposes.

Ans. It has not, only as it was hauled there from somewhere else. The only tree on it was a prickly ash, and Joseph Marcum put it

there--brought it from Copper Ridge.

Cross-Examined.

Ques. Who, if anybody, ever showed you the boundaries of this lot, as claimed by James M. Duff ?

Ans. No one. I knew no boundaries except as it was fenced up.

Ques. Then so far as you know the lot as Duff claimed it could have had timber upon it?

Ans. The lot that is in dispute there was no timber on it--I used to live on it.

Ques. Please describe the lot now in controversy, beginning with the beginning?

Ans. I would begin ^{with} what I would call the South corner, and run back North-east, then North, then about West or Southwest, then South to the beginning.

Ans. If no one never showed you the boundaries to this lot as you stated a moment ago, please state how you come to know where the lines and corners are?

Ans. James Duff told me he had it fenced up--said he had been to Court and had took counsel, and they told him it was best to fence it, and he said he had went and fenced up one square acre.

Ques. Then did James Duff fence up more land than had theretofore been fenced ?

Ans. I do not know, but I believe there is a little more.

Ques. Did he take in any trees or bushes in this new peice?

Ans. He did not unless it was a little white poplar or two.

Ques. Please state when this conversation took place as near as you can ?

Ans. It was not far from the death of his grandfather, I can not say positively, but I believe now it was just a little while after his death.

Ques. Who built the house where Emmett Duff now lives, being the house on the lot in dispute ?

Ans. James M. Duff.

Ques. Who first lived in it ?

Ans. James M. Duff.

Ques. I will ask if you if L. H. Gobble did not first live in the house

house, then ~~L. H. Gobble~~ ~~as~~ J. M. Duff move in the house with him, and then L. H. Gobble move out?

Ans. I can not be positive, but it is my impression that Mr. Duff first lived in it. I think he lived there about five years--that is my recollection now.

Ques. Who next lived in the house and how long ?

Ans. The old man Gobble, and stayed there until about one year ago.

Ques. You have stated that Mr. Gobble paid Phillip Roller rent, please state how much he paid each year ?

Ans. He paid part of the time \$10.00 and part of the time \$5.00. It might have been just three or four years that he paid ten and the ~~rest~~ rest of the time five-- I can not just tell.

Ques. During the time that he paid this rent, if he had any other of Mr. Roller's land except the house and lot please state what it was.

Ans. He had land rented on the mountain.

Ques. I will ask ~~if~~ you if he did not cultivate a little lot known as the peach orchard, also another little lot above the house?

Ans. There was not but two lots as I considered it, the one around the house and the peach orchard lot below it--he cultivated the peach orchard lot in grain some years.

Ques. I will ask you if Mr. James Duff did not clear another lot between this lot in dispute and the ridge road that runs up by the Church and did not Mr. Gobble tend that lot also.

Ans. I believe I do remember a little lot up there and that the old man tended it--something like two acres is the best of my recollection.

Ques. Please state what would be a fair cash rent per year for the house and lot, the peach orchard lot and the little two acre lot of which you speak ?

Ans. \$10.00 I think would be enough for it.

Ques. If I understood you a moment ago you stated that Mr. Duff sent you to Mr. Roller to get a right or a title bond for the house and lot in dispute ? Is that correct ?

Ans. It is.

Ques. During the time that Mr. Duff lived in the house do know of his paying any rent to Phillip Roller?

Ans. I do not.

Ques. In the conversation that you had with Mr. Duff about said lot at all times did not he not claim the house and lot to be his ?

Ans. No, Sir, when we were talking he sent me to get the title bond.

~~Ques. State when he did not claim it.~~ And I did not consider that he ~~Ans.~~ claimed it then. He always claimed at all other times that his grandfather ought to give him a right to it.

Ques. Please state if Mr. Duff did not at the time he built the house and since claim that he built the house for himself, and that his grandfather promised him the lot.

Ans. Mr. Duff claimed the house--except the time he wanted me to go and get the title bond for him.

Ques. If I understand you correctly his grandfather Phillip Roller also said if he would go on and build the house and do right he would make him a right to it?

Ans. He stated if Duff would build the house, ^{and do right} it would be for him, Duff, but he did not say he would make him a right to it.

Re- examined.

Ques. Please state anything you may know, if you know anything, about a notice that Mr. Roller gave to Mr. Gobble to leave his premises.

Ans. I know nothing only what I heard. I heard James Duff say something about it.

And further this deponent does not say.

*Witness claims
1 day 50 ct.*

Wm. X. Lawson
mark

F.M. Price another witness of lawful age being duly sworn deposes and sa

Ques. Please state your age, occupation and place of residence.

Ans. I live on Wallen Creek, I am a farmer, age 63.

Ques. Do you know James M. Duff and did you know Phillip Roller in his life time?

Ans. Yes, I know James M. Duff and knew Roller in his life time.

Ques. I'll ask you if you are acquainted with the lot in dispute and if you answer that you are please state how long you have known it and how long since there was any timber on it suitable for fire wood purposes

Ans. I have known the lot about 35 years, and there has been no fire wood on in my recollection.

Ques. Please state whether or not you ever heard a conversation between

Phillip Roller and James M. Duff in regard to this house and lot, and if you answer that you did please state as near as you can when it was where it was who was present and all you may know about it.

Ans. I heard a conversation between Phillip Roller and James M. Duff in 1882 or 1883 is my recollection as to the time, and it was at Phillip Roller gate, Mrs. Roller was standing in the yard and Duff and Roller were talking when I rode up. They were talking very loud, and it seemed like they were both a little sorter ashy, and were disputing about a lot and a bond, Mr. Roller said he had given no bond, Mr. Duff said he had. Mr. Roller said bring it up with my signature to it, and Duff said he would not do it, he would see him in hell first, and Roller further said if you have any bond of mine you shaped it yourself.

~~Ques. Please state~~ The foregoing question was objected before answer was made but the objection was not put down, it is object to because the testimony is testimony in chief if admissible at all.

Pridemore & Duncan.

Ques. Please state if you know who lived in said house at that time.

Ans. Mr. L.H. Gobble.

Ques. State if you know to whom Mr. Gobble paid rent, how much and from whom you got your information.

The foregoing question is objected to unless the answer was derived from Mr. Duff or from someone in his presence.

D. & P.

Ans. He paid rent to Mr. Roller I suppose, they both told me so, I mean Gobble and Roller, my recollection ^{in Gobble's book} he was to pay \$25. for the house and lot and a little three acre lot below it.

Ques. State whether or not you ever saw any contract between said Roller and Gobble in regard to Gobble's renting said house and lot, if you answer that you saw a contract please state where you saw it and what year or years it was for if you remember.

The foregoing question is objected to because that if the contract is in writing it is itself the highest and best evidence and should be produced or its loss accounted for.

D. & P.

Ans. I saw what Mr. Roller said was a contract lying on Mr. Roller's table but did not read it, he said he had it there for Gobble to sign my recollection is that this was in 1885 or 1886.

Ques. Please state what you may know if anything in regard to a notice from Mr. Roller to Mr. Gobble to vacate his premises - state from whom you obtained your information if you have any, in regard to said notice and all you may know about it.

The foregoing question is objected because ~~if given~~ the notice if given must be in writing, and must be produced or its loss accounted for, and besides the testimony if given ~~must be~~ would be evidence in chief.

Ans. Mr. Roller wanted ~~me~~ me to give him, Gobble, a notice, and I advised him to get Mr. Lockheart to give it to him.

Ques. Please state if you know why it was that Mr. Roller gave him this notice, whether or not Mr. Gobble left the premises and if not why not.

Ans. Mr. Roller had rented the land to John Rutherford, Rutherford did not come but he or ^{Mr. Roller} ~~Rutherford~~ let Alex Rutherford his brother have the contract, and Alex Rutherford let Mr. Gobble remain there by the consent of Mr. Roller.

Cross Examined.

Ques. Mr. Price was you ever indicted and tried for forgery in Lee County.

Ans. I was indicted once for what they call forgery, but was never convicted and I am as clear of the charge as any man.

Ques. Are you not mistaken when you say that Phillip Roller rented his lands to John Rutherford, did not James M. Duff make that contract with John Rutherford?

Ans. Phillip Roller made the contract, I never heard of ~~any one else~~ ^{James Duff} mentioning it before.

Ques. The year that you say Alex Rutherford tended Roller's land who lived in the house and cultivated the lots the peach orchard and the lot in which the house stands. Please answer what you know about it not what you have heard people say?

Ans. Mr. Gobble lived there that year, and I do not know who cultivated the lots.

Ques. Please state whether or not Gobble paid any thing for rents that year if so to whom did he pay it?

Ans. I don't know whether he paid any rent at all that year or not.

Ques. Who lived in that house the next year, and who cultivated the lot

Ans. I don't recollect but it seems to me that William S. Price moved in into that house that year to take care of the old people, I am not positive about this.

Ques. Did L.H. Gobble move away?

Ans. I think he staid on till the next year, I am not certain about it however, I don't know how long he staid after that - I don't recollect

Ques. If Gobble or Price paid any rent for that year state to whom they paid it and how much?

Ans. If they ever paid any I have no knowledge of it.

Ques. I will ask you this question, is it not a fact that Wm. Price rented from James M. Duff and moved into this house in dispute since the death of Phillip Roller?

Ans. Yes, he has moved into it since the death of Phillip Roller.

Ques. You stated in a former part of your deposition that John Rutherford rented from Phillip Roller in the year 1885 or 1886. In quote from you answer on page 14, and a moment ago you told me that Wm. Price moved into the house the next year to take care of the old people, is that correct?

Ans. It was in 1888 or 1889 when Rutherford rented. I don't know whether Wm. Price moved in the next year or not. If I said 1885 or 1886 I meant 1888 or 1889.

Ques. Was the contract about the renting between Gobble and Roller in writing and signed by the parties?

Ans. I don't know - I did not read it.

Ques. If you did not read it how is it that you can tell what was in it that Mr. Gobble was to pay \$20. or \$25. per year?

Ans. Mr. Gobble and Phillip Roller both told me so.

Ques. Was Gobble there at the time you saw this contract?

Ans. I don't recollect whether he was or not.

Ques. When did he tell you about it?

Ans. It was about 1883 or 1884.

Ques. Then Mr. Gobble lived there from 1883 '84 until 1888 or '89?

Ans. Yes sir, I suppose he did , maybe longer than that.

Ques. Did I under~~stand~~ stand you correctly a moment ago when you said that it was because Mr. Roller was charging Mr. Gobble too much rent as Gobble thought, that caused Roller to rent to Rutherford

Ans. I think that is right.

Ques. Then it took Mr . Gobble from 1883 '84 to 1888 or '89 to find out that Roller was charging him too much rent?

Ans. It is very likely that it did .

Ques. To this same question a moment ago did you not make answer , no Sir that is a new wrinkle?

Ans. Yes, but I didn't understand it.

Ques. At any year after Phillip Roller rented to John Rutherford as you say do you know of Gobble's paying any rent to Phillip Roller, if so state the year he paid it and how much?

Ans. If he ever paid any since that I have no knowledge of it.

Ques. For many years before Phillip Roller's death and since his death until about one year ago did not L.H.Gobble continue to reside in the house and cultivate the lot in controversy?

Ans. I think he did - that is my recollection.

Ques. If L.H.Gobble has paid any rent since the death of Phillip Roller, to any person, state to whom and how much?

Ans. If he has I have no knowledge of it.

Ques. The conversation you say took place between Mr. Duff and Mr. Roller was about the year 1883; was Mr. Duff then a man that used profane language, and does he use it now. Speak of your knowledge of him.

Ans. Objected to because immaterial and irrelevant.

O. & B.

Ans. I have heard ~~very frequently~~ Mr. Duff curse very frequently but not lately.

Ques. Did you hear him about 1883 or since that time?

Ans. Yes Sir, since that time, and then, but not lately

Ques. In the conversation that you have undertaken to detail between Mr. Duff and his grandfather Mr. Roller in 1883, do you remember all that occurred, all that was said distinctly?

Ans. I don't know that I could recollect all that was said.

Ques. Did not Mr. Duff at that time contend that he had a bond on Mr. Roller for the lot and house in controversy?

Ans. It seems like it was from the way he talked.

Ques. Who has had control of that house and lot since James Duff built a house upon?

Ans. I don't recollect how long Duff staid there, since that Phillip Roller has been renting it.

Ques. To whom did Phillip Roller rent it except what you have stated about Gobble?

Ans. After Duff left it I don't reckon any body has occupied the house but Mr. Gobble. Wm. Price moved there once, I don't think he ever moved there but one time, he moved there after the death of Phillip Roller.

Ques. ~~DID PRICE~~ Who did Price rent from?

Ans. I don't know that he rented at all - James Duff wanted him to go there to take care of the old folks.

Ques. Did you read the notice that Mr. Roller wanted you to give Mr. Gobble?

Ans. I did not.

Ques. You do not therefore know what was in it.

Ans. I did not.

And further this deponent saith not.

*Witness claims
1 day 50 cts.*

H. T. Ferguson

Henry T. Ferguson another witness of lawful age deposes and says:

Ques. 1. State your age residence and occupation?

Ans. I am 64 years old reside on Wallen's Creek and am a farmer.

Ques. 2. Are you acquainted with Joseph Marcum ~~and~~?

Ans. I am and I have known him all my life, we were boys together.

Ques. 3. State whether or not you had any conversation with Mr. Marcum in reference to the matter in controversy in this suit, or in reference to Mr. Duff claiming to have a title bond from Mr. Roller to the house and lot in controversy, in which he stated that he knew nothing about the matter or words to that effect, and if you had such conversation please state when and where it was and what he said about it?

The foregoing ~~XXXXXXXXXX~~ question and any answer thereto is objected to because no foundation was laid for asking any such question when Mr. Marcum was on the witness stand testifying in this case, and unless a foundation for such question and answer had been laid, said question and answer are totally inadmissible, irrelevant and immaterial.

Duncan & Pridemore for D

Ans. The first time I ever had any conversation with Mr. Marcum about it was on one occasion when I met him near France Miles' shop here in town just as he was leaving, I had shortly before had a conversation with Mr. Duff in reference to a title bond which he claimed to have from Phillip Roller for a title to the lot here in dispute, and I asked Mr. Marcum if he had ever seen such a bond or read it and he said he had not. At that time he said nothing about ever having heard of such a bond, but on a subsequent occasion when he and I and Mr. Duff were together he said that he believed he had heard of such a bond, or that he had heard of such a bond but had never seen or read it.

Ques. Did or not Mr. Marcum state to you in the first conversation or at any other time, state to you that he knew nothing of the matter except what Mr. Duff had told him?

Objected to because no foundation was laid--Mr. Marcum not being asked in relation to this matter--D. & P.

Ans. I do not know that he used Mr. Duff's name in the first conversation--he just stated that he knew ^hnothing of it. I think that when he, Mr. Duff and myself were together in answer to a question from Mr. Duff, he said that he had heard something about the ~~had~~ bond, but did not tell from whom.

And further this deponent saith not.

Witness Claimed
1 day 50¢

H. C. Ferguson

Samuel Poteet another witness deposes and says.

Ques. 1. State your age residence and occupation

Ans. I am 64 years old, reside on Powell's river and am a farmer.

Ques. 2. Were you acquainted with Phillip Roller in his lifetime if so how long did you know him? And are you acquainted with J.M. Duff?

Ans. I was acquainted with Mr. Roller knew him from my earliest recollection to the time of his death, and I have known J.M. Duff all his life

Ques. 3. State whether or not you ever heard Mr. Roller say anything about making or not making to Mr. Duff a title bond to the house and lot in controversy, and if so when and where was it and what did he say about it?

Objected to because this, if testimony at all was testimony in chief as this enquiry was gone into and pressed to the satisfaction of the Plaintiff when this first witnesses were introduced. 2nd this would be the self serving declarations of Mr. Roller and in no way binding on Mr. Duff.

Duncan & Pridemore for Deft

Ans. Two or three years before Mr. Roller died I was at his house and he got to talking about a bond to Duff and in that conversation he said he had never made such a bond and did not intend to. Sometime before this and several times I had heard him talk about it and he always expressed himself about in the same way.

Ques. 4. State whether or not you had any conversation with William Ball in regard to the matter here in controversy since the institution of this suit in reference to what he knew in regard to the matter in controversy and if so state when and where it was and what he said about it?

Objected to because no foundation was laid for any such question and answer when Mr. Ball was on the stand.

Duncan & Pridemore for Deft.

Ans. I have heard him talk about it time and again since April 1897, he lived on my land last year and worked for me a good deal, the first talk I heard him have he said he expected to be a witness in the case and that he knew nothing about it, he always claimed that he knew nothing about the matter. The last conversation he had with me was as he was on his way here, he came by my house to get over the river and said he was on his way here to give his deposition, I said to him I thought he knew nothing about it, he then said he did not.

Ques. 5. Are you acquainted with the house and lot in controversy that is the house in which Emmet Duff now lives?

Ans. I am and have known it, that is the lot ever since I can first remember, the first school I ever went to was in a house which I think stood on the upper end of this lot, and I have known the lot ever since.

Ques. State wheth er or not there was any timber on said lot for fire wood or other purposes during the last 25 or 30 years?

Ans. I don't thi nk there has been any firewood of any account on it for the last 25 forty years,unless it was some old scrubby stuf,that is i f I know where sai d lot goes to.

Ques. 6 Have you observed the lot as it is now enclosed?

Ans. I have been by there and saw where it run.

Ques. 7. Is or not yo ur answer in reference to the timber as you have given i t above the same in reference to the lot as it is now enclosed?

Ans. Yes,pretty much:

Crod-examined.

Ques. 1. How long ago was it when you first heard Phillip Roller talkin about said lot and J.M.Duff's claim to it?

Ans. Ans. Just a few years ago,it was a few years before his death,I cant remember the exact time.

Ques. 2. At that time Mr. Roller was quite an old man was he not?

Ans. He wa s. He was getting tolerably old.

Ques. Do you know how old he was at the time of his death?

Ans.I do not he was up in 80 as I understood.

Ques.3. How come Mr. Roller to be talking about said lot and a bond to it & or no bond to it,was any body claiming said lot if so whom?

Ans. On the last ~~ELI~~ time he seemed angry when I got to his house and said Duff had been anoying him about it and had been wanting him to gie him a title bond to it and he did not intend to do it,on the other oc-casions I do not know how the conversation came up,from the run of his discourse Duff was claining or wanting a bond to it some how that way.

Ques. Did he say that Duff wanted him to give him a title bond for the l ot or that he wanted him to make him a right to it?

Ans. A title bond I believe this is my recollection.

Ques. Who built the house that Emmet Duff now lives in on said lot?

Ans. Calabe Duff had it built I believe,J.M.Duff's father.

Ques. How lon ^g ago was this?

Ans. I dont remember.

Ques. Now are you not mistaken about Claib Duff having said house buit

Di d no t J.M .Duff build it?

Ans.

Ans. I do not know. I know that Claib Duff had one built there for I was at the house raising, he built it for old Jimmie Lambert who had or was going to put up a blacksmith shop there. That was forty year ago I think or near that it may have been more than that.

~~Ques. Do you~~ that house may have been torn away and another one built
Ques. Do you know anything about the house that was built there in the year 1866?

Ans. I do not.

And further this deponet saith not.

*Witness claims 1 day
attendance 50¢*

Samuel Poteet

Virginia, Lee County, to-wit:

I, H. C. Joslyn, a Justice of the Peace in and for the County and State aforesaid, do hereby certify that the foregoing depositions of T. J. Ball, F. M. Price and William Lawson was duly taken, sworn to and subscribed before me, ~~on the day~~ at the time and place and for the purpose mentioned in the caption of the same. ~~Given~~ Given under my hand, this the 30th day of May 1898. And the parties in my presence waived the swearing of John B. Lawson.

H. C. Joslyn

J. P.

Virginia, Lee County, to-wit:

I, W. A. Baker, a Justice of the Peace in and for the County and State aforesaid, do hereby certify that the foregoing depositions of H. C. Joslyn, A. B. Munsey, Samuel Frost, A. E. Rutherford, S. J. Lockhart, ~~As~~ S. A. Lockhart, H. T. Fergerson, Samuel Poteet, were duly taken, sworn to and subscribed before me at the times and places and for the purposes mentioned in the caption of the same. Given under my hand, this the ~~30th~~ day of

May 1898.

W. A. Baker J.P.

Filed May 26 1898
A.B. Munsey Clk

J. C. Roller
ob. in ch. y.

J. M. Duff, et al.

Depositions of
Plaintiff.

H. C. Foster	50
A. B. Munsey	50
Samuel Frost	50
A. E. Retherford	100
S. J. Lockhart	50
S. A. Lockhart	50
J. B. Lowson	50
T. J. Ball	50
W. Lowson	50
H. M. Price	50
H. F. Ferguson	50
Samuel Vattel	50

Test J. P. Fee 6 hours 4.50

13 Baker J. P. Fee 12 " 9.00
\$20.00 ~~\$19.50~~

J. C. Roller, pl. off
vs.
J. M. Duff, et als, def. (1)

-----The depositions of W. O. Perkins, E. C. Duff

Joseph Marcum, William Ball, Daniel Stephens & John
taken by agreement at the law office of Orr & Blankenship, in the
town of Jonesville, Va., before me, C. C. Blankenship, a Notary Pub-
lic in and for the County of Lee and State of Virginia, to be read as
evidence on behalf of J. M. Duff in the chancery cause of J. C. Roller
against said Duff et als, pending in the Circuit Court of Lee County,
Virginia. *On this May 24th 1898,*

Present: A. L. Pridemore, of counsel for J. M. Duff; and George W.
Blankenship, of counsel for J. C. Roller.

W. O. Perkins, a witness of lawful age being duly sworn deposes as
follows:

Ques. 1. Please state your age residence and occupation ?

Ans. 49 years old, residence, Fairview, Va., occupation a phys-
cian.

Ques. 2. Please state whether or not you ever lived on Wallen's ~~Creek~~
Creek in Lee Co., Va., and if so, was you acquainted with Phillip Rol-
ler in his lifetime and James M. Duff, his grandson, ~~the~~ ^a defendant
in this cause ?

Ans. I did live at Phillip Roller's four years--boarded with him--
and am ~~am~~ was acquainted with both Roller and Duff. I also lived in
and about that neighborhood for some sixteen years and was acquainted
with these men all the time.

Ques. 3. Please state if at any time during your acquaintance with
Phillip Roller you ever heard him say anything in reference to having
given James M. Duff a title bond for a house and lot on Wallen's Creek
in which Lilbourn H. Gobble lived for many years. State all you heard
him say about it if anything ?

Ans. I have heard him say he gave James M. Duff a house seat and
made him ~~about~~ a bond for the deed, that is the house ^{+ lot} in which L. H.
Gobble lived. I was well acquainted with Mr. Gobble and the place where
he lived. While I stayed with Mr. Roller, he was an old and feeble
man, and I would sometimes get his firewood for him. We would get

wood just above the lot on which the house stood, and there was a small quantity of wood on the lot not then cleared, and Mr. Roller would caution me not to get over on that lot in cutting wood. He pointed out this lot to me at different times, and also the lot on which the Church stood, near to it, there was a small lot between the two known as the Schoolhouse lot. The lot on which Gobble lived was about an acre. When I first went to Roller's Mr. Duff lived on said lot, afterward he and Gobble exchanged--Duff went to where Gobble lived and Gobble went where Duff lived.

Cross-Examined.

Ques. 1. When did Mr. Roller say he made Duff a title bond to said lot--I mean what did he say was the date of said bond, or about the ~~date~~ date?

Ans. As near as I can remember it was about the year 1873-4, or ~~187~~ 1875, that the conversation took place. I do not know that he told me the date of the bond.

Ques. 2. Did not Mr. Roller deed to said James M. Duff some land near to the lot in controversy?

Ans. I do not know that he did--he told me that he had sold off to said Duff a lot of land near to the lot in controversy, but do not remember of hearing him say anything about the deed.

Ques. Was there any one present at the time or times you speak of hearing Mr. Roller talk about this matter, if so, state whom?

Ans. My wife was present some of the time. She is dead. She knew all about it.

Ques. Did your wife know more about it than you?

Ans. No, Sir, I do not know that she did.

Ques. To whom and when did you first tell what you knew about this matter?

Ans. To James Duff--he asked me about one month ago what I knew about it.

Ques. Did or not Phillip Roller tell you of any other land transaction he had about or previous to the time you boarded with him, if so please state about them?

Ans. I do not know that he did. He told me how he was going to divide his land among his children and grandchildren, at his death.

-----And further thid deponent saith not.
Witness clays one day 50c.

Mileage 20 mi. ea. Way 1.60.

W. C. Pinkerton

Total, \$ 3.10.

-----E. C. Duff, another witness of lawful age being duly sworn deposes and says:

Ques. 1. Please state your age, residence and occupation ?

Ans. My age is 27, farmer, residence Wallen's Creek.

Ques. 2. Please state if you are a son of James M. Duff and a great grand son of Phillip Roller, deceased ?

Ans. I am.

Ques. 3. During your great grandfather's lifetime did you ever hear him say anything about who was the owner of the lot on which your grandfather, L. H. Gobble at one time lived, if so state what it was ?

Ans. Some seven or ~~eight~~⁸ years ago, I do not exactly remember the time, there was some talk of my getting married, and my great grandfather was talking to me about that, and he remarked if I did get married I would have to have my father's house ; James M. Duff, where Mr. Gobble then lived, and this is about all the conversation ^{of his} with him about it.

Cross-Examined.

Ques. Where was this conversation had, and who was present?

Ans. It was at Phillip Roller's house, and no one was present but he and I.

Ques. 2. To whom did you first tell this conversation, and when ?

Ans. I do not remember.

Ques. 3. What else was said in that conversation ?

Ans. I do not remember, several things--we had a long conversation, but I do not remember anything else.

Ques. 4. Who lives in the house in controversy ?

Ans. I do.

Ques. 5. Have you purchased it, or have you got it rented ?

Ans. It was given to me.

The introduction of this witness and each statement made by him is objected to because, he is shown by his last answer to be a party in interest--the original owner of said house and lot--Phillip Roller being dead.

Mr. Blankenship for Pl. ff.

----And further this deponent saith not.

*Witness Claims—
1 day .50.*

E. L. Duff

-----Joseph Marcum, another witness of lawful age, being first duly sworn deposes, and says:-

Ques. 1. State your age, occupation and residence ?

Ans. My age is 66, occupation farmer, residence Olinger.

Ques. 2. Please state whether or not you ever lived on Wallen's Creek, Lee County, Va., if you answer yes, state how long, and whether or not you was acquainted with Phillip Roller in his lifetime, and are acquainted with James M. Duff, a defendant in this cause ?

Ans. I have lived on Wallen's Creek I suppose about 20 years, and was well acquainted with Phillip Roller, am also well acquainted with J. M. Duff. I lived a good portion of the time within one-half mile or less of the old man Roller.

Ques. 3. Were you and are you acquainted with the house and lot near the Church--Roller's Chapel--in which L. H. Gobble for many years lived ?

Ans. I was and well acquainted with it.

Ques. 4. Please state if you ever heard Phillip Roller in his lifetime say anything about said lot, who owned it, and state as near as you can all you ever heard him say about it, and when he said it, if he ever said anything ?

Ans. I heard Mr. Roller talking about James Duff building there and he said that Duff would not build without being the owner of the land building upon, and that he was letting him have a certain boundary there to build on, and I heard him say afterwards that he had give a title bond or had deded, and I am not certain which way--the lot. I don't know that I remember anything else that he said about it. I don't remember the amount in the lot .

Ques. 5. Please state whether or not Phillip Roller at any time pointed out and showed you about where the lines of said lot would run?

Ans. He did.

Ques. 6. Please state during the time that you knew said house and lot who controled it and who claimed to own it ?.

Ans. James Duff and his father-in-law- L. H. Gobble controled it, and James Duff claimed it, I did not hear it claimed by anybody else.

Cross-Examined.

Ques. 1. Did you ever hear Mr. Duff claim the property in the presence of Phillip Roller ?

Ans. I have.

Ques. 2. State when and where it was.

Ans. I can not state the time, but it has been a long time ago, and was near the lot, and at the same time the old man pointed with his cane and showed the bounds.

Ques. 3. Who was occupying the property at that time ?

Ans. Mr. Duff himself I think.

Ques. 4. Do you know whether Mr. Duff paid any rent to Mr. Roller or not for the time he occupied it ?

Ans. If he did I know nothing of it.

Ques. 5. Did not Mr. L. H. Gobble occupy the house and lot for a considerable length of time ?

Ans. He did, I can not tel how long, but for several years.

I think they both lived together there a while, then Mr. Duff moved out and Mr. Gobble remained. Mr. Duff moved to where he now live

Ques. 6. Did not Mr. Roller sell to Mr. Duff the house and a lot of land where he now resides ?

Ans. I do not know anything of that sale only from hearsay, I never heard Mr. Roller say anything about that I now remember of.

Ques. 7. Was it not in reference to the last named house and lot , and not the one in controversy; that you heard Mr. Roller speak of making a bond or giving a deed for to Mr. Duff ?

Ans. It was for the house and lot that Mr. Duff built long before he moved down to where he now lives that I heard Mr. Roller speaking of

Ques. 8. You say you lived in onehalf mile of Mr. Roller, where did you reside at that time, please desigante the place ?

Ans. I lived right upon the ground that Mr. Duff built upon for some years. There was a cabin house there before Duff built there, it on land controled by Mr. Claiborne Duff, James Duff's father, it seems that Mr. Roller had made a temporary divide between his children, and Mr. Andy Roller living on the lower end and Claiborne Duff on the upper end.

Ques. 9. Did you not know the fact that Mr. Roller rented the house and lot in controversy together with some other land to John Rutherford, and that Alex. Rutherford afterwards took the contract and cultivated the land ?

Ans. I do not.

Re--Examined.

Ques. 1. Please state whether or not the conversation which you speak of as had by Phillip Roller about said lot did not take place at or about the time that James M. Duff was cutting the house logs to build the house which he afterwards put upon said lot ?

Ans. I heard him talking about it about the time he commenced building the house.

----And further this deponent saith not.

Joseph M. Warren

Witness claims one day---.50c.

Mileage-20 mi. 1.60.

Total, \$2.10.

-----William Ball, another witness of lawful age, being duly sworn deposes and says:-

Ques. 1. Please state your age, occupation and residence ?

Ans. My age is 62, occupation a farmer, and reside Wallen's Creek.

Ques. 2. Please state whether or not you was acquainted with Phillip Roller in his lifetime, if so state how long ?

Ans. I was and have been acquainted with him ever since I can recollect.

Ques. Do you know a house and lot on Wallen's Creek, ~~xxxx~~ which James M. Duff built, and lived in for a while, and in which L. H. Goble lived for several years ?

Ans. I do.

Ques. If you ever heard Phillip Roller in his lifetime say anything about said lot and its ownership please state when it was, where it was who was present, and all that you heard him say about it ?

Ans. I heard Phillip Roller have a conversation about this lot, on

Wallens' Creek where

on Wallen's Creek, near where James M. Duff now lives in the road, and a good while ago, but I do not remember the time, the old man Roller L. H. Gobble and William Newberry and Bill Lambert ~~and~~ James Duff and myself were present. When I went up I spoke to them, and then sat down a while, and old Mr. Roller told Mr. Duff to go ahead and ~~build~~ build the house--Mr. Duff had commenced building the house before that and then ~~xxxxxxxxxx~~ he, Roller, stopped him, and Mr. Duff seemed to be a little soter "scringy" that he would take it away from him, Roller then told ~~xxx~~ him that he would let him have from a certain oak at the big road up to a walnut tree, and from there back towards Roller's chapel, and then back down to the big road and then with the big road to the oak, and he also told him then he would give him writings or something to show that he would not take it from him, and from that time on Mr. Duff had it in possession and counted it as his so far as I know. I think Mr. Duff had a paper in his hand, but I did not notice what it was, ~~xx~~ and that is all I now remember.

Ques. Was this conversation had and held in sight of said lot and near to it?

Ans. It was.

Ques. Did James M. Duff afterwards for awhile live in the house that he there built?

Ans. Yes, Sir-

Ques. Who lived in it after Duff moved out?

Ans. L. H. Gobble, Duff's father-in-law.

Cross-Examined.

Ques. How long did Mr. Duff live in the house?

Ans. I do not know how long, but 'till him and Mr. Gobble swapped houses. Perhaps a year or two.

Ques. Where was Mr. Gobble living when this talk took place?

Ans. In the house where Mr. Duff now lives.

Ques. Who then owned the house where Mr. Gobble lived?

Ans. ^{Mr. Roller,} James M. Duff ~~He had~~ bought it from his grandfather Roller, ^{afterwards.}

Ques. How long did Gobble then live in the house Duff built?

Ans. From the time that they swapped until the time James Duff's son married about one year ago.

Ques. Was not the conversation you heard in reference to Mr. Roller selling to Mr. Duff the house and a lot of land where Mr. Gobble then lived ?

Ans. No, it was the other that he spoke of.

Ques. How long ago has it been since you heard that conversation ?

Ans. It has been about 26 years or more.

Ques. Where were you going on that occasion ?

Ans. Up to my mother's.

Ques. What day of the week was it on ?

Ans. I do not remember.

Ques. I will ask you if you have not told Thomas Ball since the institution of this suit, over ~~an~~ in that neighborhood that you did not know anything about this matter except what James M. Duff told you, or words to that effect ?

Ans. No, Sir, I told him I did not see the bond.

Ques. You did ^{then} have a conversation with Thomas Ball in regard to this matter did you not ?

Ans. Yes, Sir.

----And further this deponent saith not.

William H. Ball
deponent

*Witness claims
1 day — .50*

Daniel Stapleton, another witness of lawful age, being duly sworn deposeseth and saith:

Ques. 1. State your age, residence and occupation ?

Ans. My age is 42; occupation mechanic, residence Hunter's Gap.

Ques. Was you acquainted with Phillip Roller in his lifetime and do you know James M. Duff ?

Ans. Yes, Sir.

Ques. Are you acquainted with a house and lot on which L. H. Gobble lived for several years near Roller's Chapel, and where Emmet Duff now lives ? The same being the lot in controversy.

Ans. I have been acquainted with that lot since 1881.

Ques. Please state whether or not you ever heard Mr. Phillip Roller in his lifetime make any statement as to who owned said lot, if so,

state all that you heard him say about it ?

Ans. I heard Mr. Roller say that it was James Duff's lot.

Ques. Please state when and where you heard him say that and whether or not you ever heard him say it more than once ?

Ans. I moved on Phillip Roller's land in the fall of 1881, and I lived there about two years, and it was during that time that I heard him talk this. The old man was very free to talk to me about his land etc., and about the land he had sold Duff at the lower place, how much he owed him, when it was due, etc., and he would speak of the upper lot as Duff's lot.

Cross-Examined.

Ques. 1. ~~Mr~~ Was Mr. Duff living on the upper lot at the time of these conversations ?

Ans. No, Sir, he was living at the lower place.

Ques. Who was living on the upper lot at the time ?

Ans. L. H. Gobble.

~~Ques.~~ And further this deponent saith not.

Daniel Stapleton

Witness claims one day, 50c.

----The further taking of depositions in this case is adjourned until Thursday, May 26th 1898, at the same place. This May 24, 1898.

memo.
may 24, 1898, 4 hrs. + 30 mi.

L. C. Blankenship,

Notary Public, in and for Lee Co., Va.

Met pursuant to adjournment on this the 25th day of May 1898, at the same place. Present: C. T. Duncan, of Counsel for J. M. Duff, and Orr & Blankenship, counsel for Plaintiff.

John M. Tate, another witness of ~~xx~~ lawful age being duly ^{qualified} ~~sworn~~ deposited and saith:

Ques. 1. Were you one of the Commissioners who partitioned the lands of Phillip Roller, deceased, among his heirs ?

Ans. Yes, Sir.

Ques. 2. Please state if A. J. Roller was present at said partition and if so did he know the ^{or} partition and assignments made, and if you state that he did, please state whether or not the same, was satisfactory to him, or if he ^{mads any objections thereto?}

Ans. Said A. J. Roller was present at the said partition, I communicated to him the lines shown in the plat after it was completed, and that he made no objections to it whatever to the best of my recollection, my recollection is that he was perfectly satisfied with it.

Ques. I now show you said original plat, which appears to be in your handwriting, and will call your attention to a small lot laid down on said plat in a dark varied color adjoining the schoolhouse lot in white and marked with the letters J. M. D., please state if this is the plat you showed him, and if so, was said lot and the letters J. M. D. inside of it on said plat at the time you so showed it to him ?

Ans. This is the plat, but I can not say it was the paper I shown to Mr. Roller, it may have been a rough plat I shown him, but containing the lines as shown on this plat and the same lettering. And this may be the very same paper.

Cross-Examined.

Ques. 1. Did you partition or assign the small lot of land and house thereon designated on your plat by the spot you have referred, to, to any one, and does your report show such partition or assignment ?

Ans. My recollection is that we did not partition said lot, and upon examination of said report I find that we did not mention said lot, from this fact I conclude that we did not regard said lot as composing any part of the estate of Phillip Roller deceased.

Ques. 2. Did not A. J. Roller claim that the house and lot belonged to the estate of Phillip Roller deceased, but as Mr. Duff claimed that it belonged to him, Did not you and the other commissioners leave it out of the partition and leave the matter to be settled between the parties?

Ans. I do not think so, I have no recollection of such a claim being made by Roller, if there had been such a claim it seems to me that I would have mentioned the matter in the report and that I would not have marked said lot as J. M. Duff's. But at this time I am not confident of all that occurred, Mr. Roller and Mr. Duff had some contentions about matters connected with said partition, but I cannot now state what these contentions were.

Ques. 3. Why did you lay down the spot on your plat designating the house and lot if you considered the house and lot did not belong to the estate of Philip Roller, deceased ?

Ans. Well, sir, in making the survey it naturally lays itself down, the Roller estate surrounding it together with the schoolhouse lot shown on the plat.

Ques. Why did you color the spot on the plat like you did the balance of the plat, and not so color the schoolhouse lot ?

Ans. Well, sir, I can not just now tell you. I see that that lot is colored like the lot on which Duff lived.

~~XXXXXXXXXXXX~~

~~QXXXXXX~~. And ~~no~~ further this deponent saith not.

Witness claims one day 50c.

14 Miles,

1.12.

John M. Tate

Total, \$1.82.

----The further taking of depositions in this case is continued until May 26th 1898, at the same place. This may 25th 1898.

Lois Blankenship

Notary Public.

memo.

1 hr. May 25; 1898.

Virginia, Lee County, to-wit:

I, C. C. Blankenship, a Notary Public in and for the County of Lee and State of Virginia, do hereby certify that the foregoing depositions of W. O. Perkins, E. C. Duff, Joseph Marcum, William Ball, Daniel Stapleton and John M. Tate, were duly taken, sworn to and subscribed before me at the times place and for the purpose mentioned in the caption of the same. Given under my hand, this the 26th day of May 1898.

C. C. Blankenship

Notary Public.

May 1898.

Notary Public.

The deposition of the same, given under my hand, this 28th day of
scribed before me at the above place and for the purpose mentioned in
Daniel Stapleton and John M. Tate, were duly taken, sworn to and sub-
scription of W. O. Perkins, J. C. Duff, Joseph Moscan, William Bell,
the and State of Virginia, do hereby certify that the foregoing depo-
I, C. C. Blankenship, a Notary Public in and for the County of
Virginia, do hereby certify that the foregoing depo-

J. C. Roller
vs. J. C. Chy.

J. M. Duff, et al.

Depositions of
W. O. Perkins, J. C.
Duff, Wm Ball, Daniel
Stapleton, Joseph Moscan
John M. Tate

Costs—
C. C. Blankenship, N. P. \$4.12
W. O. Perkins, Wit— 2.10
Joseph Moscan " 2.70
J. C. Duff " 5.0
Wm Ball " 5.0
Daniel Stapleton " 5.2
John M. Tate " 5.2
Total \$11.64

Filed May 26th 1898
A. B. Munsey Clerk

(11)

The deposition of N.S.Cox, taken at the office of C.T.Duncan in the town of Jonesville, Va. on the 30th day of May 1898 before W. A. Baker a justice of said county, by agreement, which deposition is intended to be read as evidence in behalf of the defendant in a certain suit in chancery now pending in the circuit court of Lee County in which Calborne Roler is Plaintiff and J.M.Duff is defendant.

Present Geo. W.Blankenship attorney for Plaintiff

C.T.Duncan

"

" Defendant

N.S.Cox a witness of lawful age deposes and says.

Ques. 1. Are you acquainted with the house and lot mentioned in the bill and proceedings in this cause? If so how long have you known it?

Ans. I am, and have known it since the house was built, which was as I now recollect in the fall or winter of 1866, I moved to Wallen's creek to live in February 1867, and continued to live there until the last day of December 1873, and during that time I lived in some 300 or 400 yards of said house and lot.

Ques. 2. During the time you lived there, who lived in said house and on said lot?

Ans. Mr. Gobble and J.M.Duff lived in said house a part of the time I lived over there, and when I left there J.M.Duff was living in said house.

Ques. 3. To whom was said house and lot reputed to belong, during the time you lived on Wallen's creek?

Ans. Said house was reputed to belong to J.M.Duff, he claimed it as his and I never heard said claim disputed in any way or by any body until about the time of the bringing of this suit, that is about one year ago.

Ques. 4. Were you well acquainted with Phillip Roller during that time, how close did you live to him, and did you frequently see and converse with him.

Ans. I was well acquainted with Mr. Roller, I lived in about one half mile of him, and I often saw and conversed with him.

Ques. 5. When you moved away from there how far did you move from said Rollers and said house and lot, and how long did you remain at that place?

Ans. I moved about two miles from said house and lot, and I remained at that place three years.

Cross-Examined.

Ques. 1. Do you know to whom L. H. Gobble and J. M. Duff paid rent for

said house and lot?

Ans. I ~~may~~ do not. I don't know that they ever paid any ^{did or did not} rent. ₁

And further this deponent said not.

Witness claims day 30^e

N. S. Cox

Virginia, Lee County, Te-wit:

I, W.A. Baker, a Justice of the Peace

I W.A. Baker a justice of the peace in and for said county in the state of aforesaid do certify that the foregoing deposition of N. S. Cox was taken sworn to and subscribed before at the time and place and for the purpose mentioned in the caption. Given under my hand this 30th day of May 1898

W. A. Baker J.P.

J. C. Roller

vs. }

James M. Duff.

Det. for det.

Deposition of

W. S. Cox --- \$.50

W. C. Baker J.D., 1 hr. \$.75

J. C. Roller, -P-----Plaintiff.

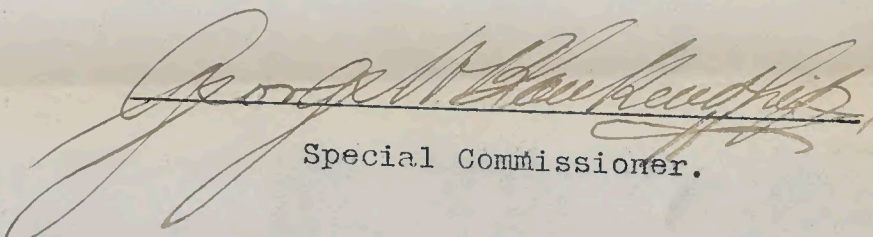
----In----Chancery-----Vs.

James M. Duff, et als., Defendants.

To Hon. W. T. Miller, Judge of Circuit Court of Lee Co., Va.:

-----Your undersigned Special Commissioner begs leave to report : That pursuant to the terms of your Honor's decree in the above styled cause dated June the 14th 1898, a copy of which is here-with filed marked "A", he executed bond as required therein; that he ~~he~~ posted written notices of the time , place and terms of sale as re-quired by said decree, a copy of which notice is here filed marked "B"; that on the 19th day of September 1898, that being the 1st day of the September term of the County Court of Lee County, he offered the land in the bill and pleadings mentioned and described, for sale, at the front door of the Court House of said County at public out cry on a credit of one and two years time, except as to the costs of suit and commissions of sale which he required to be paid in cash; that at said sale E. C. Duff became the highest bidder at the ~~price~~ price of \$81.50; that the said purchaser paid to your Commissioner the sum of \$ 64.19 , as and for the amount ~~and~~ costs of suit and commissions of sale; that the said purchaser together with his security, J. M. Duff, executed to your ~~Commissioner~~ Commissioner their bond, waiving the homestead, bearing interest from date, and due and payable in one year, for the sum of \$ 17.31 ; the balance of said purchase. Your Commissioner has not yet disbursed the costs collected by him, but the same remains in his hands subject to your Honor's orders. Your Commissioner would recommend a confirmation of this sale. This September 19th 1898.

Very Respectfully Submitted,


Special Commissioner.

J. C. Roller,

78. } Com'r's Report.

J. M. Duggs, et als.

Filed October 21st 1898

A. B. Munsey Clerk

J. C. Roller

Plaintiff

vs.

In Chancery

J. M. Duff, et al,

Defendants

The undersigned commissioner in this cause respectfully reports, that he has collected the note taken by Commissioner Blankinship for the deferred payment of purchase money \$17.31, and interest thereon from September 19th, 1898, amounting, principal and interest to the sum of \$23.76, from Mrs. Mary E. Duncan and George Holliday and has paid to Mrs. Mary E. Duncan and George Holliday who have purchased the land sold by said Commissioner Blankinship from E. C. Duff, the original purchaser from said commissioner, the amount of said E. C. Duff's interest in said real estate,

One-half	\$10.00
----------	---------

To Orr and Blankinship att'ys for	
-----------------------------------	--

Margeret Roller her dower interest	3.76
------------------------------------	------

To same attorneys for J. C. Roller 1/2	10.00
Total	<u>\$23.76</u>

E. C. Duff the purchaser of the said real estate having sold the same to said Mary E. Duncan and George Holliday, requests that the deed for same be made to them.

James H. Orr Commissioner

To the Hon. H. A. W. Skeen, Judge &c.

J. C. Keller

v3 Cover Dir's Report
3 of Col of purchase-
money.

J. M. Duff et al.

Filed Dec 10th 1904.

H. T. Ewing
Clerk

J. C. Roller,

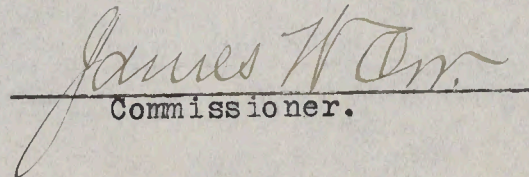
Plaintiff


vs. J. M. Duff, et al. In Chancery

J. M. Duff, et al,

Defendants,

The undersigned Commissioner in this cause, who was on yesterday by decree, directed to convey to Mary E. Duncan and George Holliday the lot or parcel of land sold in this cause by George W. Blainship commissioner, respectfully reports; that, pursuant to said decree he has executed said deed with covenants of special warranty and filed the same herewith as part of this report, marked, "Deed" for confirmation.


Commissioner.



J. C. Keller.

Report & Dec.

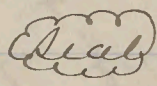
J. M. Duff et al.

Killed Deer 13th 1904.

S. A. Ewing Clerk.

This deed made this 22nd day of April
in the year of our Lord One thousand
eight hundred and ninety seven by
and between A. J. Raller of the first
part and J. L. Raller of the second part
both parties of the County of Lee and
State of Virginia, Witnesseth: that
for and in consideration of the fact
that the party of the second part is the
son of the said party of the first part,
The said party of the first part doth
hereby give present convey and deliver
immediate possession of a certain
tract or parcel of land, below described,
unto the said party of the second part
to have and to hold forever, together
with all the appurtenances thereto
belonging, The said tract or parcel
of land lies in the County of Lee
and State of Virginia on or near
Wallens Creek adjoining the lot upon
which Duff's School House stands,
on the west side: The said tract
or parcel of land contains the house
now occupied by A. H. Gabbie and
contains one acre, one undivided
half of which is hereby conveyed it
being a lot which formerly belonged to

Philipp Raller deed and was not partitioned with the other real estate of the said Philipp Raller. It also joins the lands partitioned to the Gutt heirs from the lands of said Philipp Raller. The said tract or parcel of land containing one acre belongs, one half to the said G. J. Raller and is undivided and this entire interest is the Tract hereby conveyed and the said party of the first part hereby covenants to and with the the said party of the second part that he will warrant generally the title to the land and appurtenances hereby conveyed to the said party of the second part and his heirs forever. Witness the following signature and seal this Apr. 22nd 1897

G. J. Raller 

acknowledged, signed, sealed and delivered in the presence of

J. J. Leeburn
Samuel Frost.

and on the 22 day of Apr. 1897 in
County of Lee and State of Virginia

Virginia, see County to wit:
I, S. V. P. Richmond Clerk of the County
Court for said County, in the State
of Virginia, do certify that A. J. Roller
whose name is signed to the foregoing
writing bearing date on the 22nd day of
April 1897. has acknowledged the
same before me in my County afore-
said. And said deed is admitted
to record. Given under my hand
this 26th day of April 1897.

S. V. P. Richmond Clerk
A Copy-

Teste: S. V. P. Richmond Clerk

J. C. Roller
Hony Copy of
J. Reed
J. C. Roller.

Reed Book 33
page 46v

Clark Soets

Filed as evidence in
the Chy Cause of J. C.
Roller vs James W
Duff, without formal
introduction, by consent,
James W Orr
C. T. Duman & J. J. J.

J. C. Roller
against
J. C. Duff et al.

This is a bill
filed to partition, or rather to
sell, and divide the proceeds of
a lot of land, about one acre
with a small log house upon
it - all of but little value.

The defendant Duff resist
this partition and claims the
property -

In 1867 according to the proof
Philip's Roller, the grand father
of Duff, laid off this lot and
gave it to him - And in that year
now 31 years ago Duff built
a house upon it, planted and
orchard on it, married and moved
into and remained there from 10
to 15 years without the payment
of rent. Then Duff purchased
an other house lot from his
grandfather in which one of his
tenants, L. H. Gobble, the father in
law of Duff lived, Duff could
not make this purchase without
as he says furnishing his own
house for Gobble the tenant to live in

Any way Duff & Gobble exchanged
and Gobble continued to live in
the disputed house until about a
year ago - The plaintiff insists and has
some proof to show that Gobble
paid Phillip's Reller rent. But
the preponderance of evidence
shows that the rent was paid
in the Peach Orchard & two acre lot
only \$5⁰⁰ a year was paid, and
the two acre lot & other two lots are
shown to be worth an annual rent
of \$25⁰⁰ so we may conclude
that no rent was paid

There is proof, that old man
Man Reller after he got very
old & feeble lived in the house
and lot, but Duff claimed the house
and lot, to him for many years
back and claimed to him that he
had a title bond for it which had
been lost. So that Phillip's
Reller knew that Duff had been
adversely claiming adversely to
him - The statute then began to run
and never stops. So that Duff
has by possession adversely held
a sufficient length of time to
hold. And his title is now good
and the law will presume a deed
to the same.

3 Some 7 or 8 years ago, the land
4 of Phillip Roller, he having died
5 was partitioned, among his heirs
6 and this lot, was claimed by
7 Duff, and by the Commissioners
8 assigned to him, and the report
9 thereof confirmed

10 In this suit last mentioned
11 Andrew J. Roller, a son of Phil-
12 lip ~~of~~ Roller was a party as
13 was Duff & the other heirs, Andrew
14 J. Roller is the father of J. C. Roller
15 the plaintiff here, and the plaintiff can
16 have no greater right than he

17 Now our contention is that if
18 Andrew Roller had any claim
19 to assert in reference to said land
20 he had to do so by exception to
21 the report assigning it to Duff
22 And as he did not do that but
23 allowed it to be confirmed to
24 Duff, he and those claiming under
25 him are estopped to deny that they
26 have any claim or right in or to it.

27 We deny that the lot was partitioned
28 as Phillip Roller's land, but was
29 claimed by us, and not denied
30 and treated, by the Commissioners & Andrew
31 J. Roller as Duff - Roller should
32 have had it partitioned then or else
he is estopped.

Although the depositions are to some extent conflicting, we think the clear uncontradicted deposition of Dr. W. O. Perkins and Joseph Marcum would prove this case, clearly against Phillips Ruller. It is worthy of remark that Andrew Ruller yet - living on this farm is not called to testify - It is fair to presume he knows something about it, and that it would be against him or he would tell it.

Which facts are respectfully submitted.

Duncan Pridemore Secured
for deff.

Ruller

deff
deff Brief

J. C. Roller.

Vs.

In chancery.

J. M. Duff.

This is a suit to partition or sell the house and lot in the bill mentioned belonging to the estate of Phillip Roller deceased.

The evidence of the Comrs. Munsey, Joslyn and Tate show why the same was not partitioned when the other real estate of decedent was partitioned, and that the same was not partitioned. The defendant in his answer simply denies that any of the estate was not partitioned, and denies that plaintiff has purchased the interest of A. J. Roller in said house and lot and requires proof thereof. The deed from A. J. Roller, filed, as evidence, proves plaintiff's purchase. The defendant attempts to prove that the house and lot is his, but his evidence falls short of proving that the house and lot is his, or in what manner it became his. He attempts to prove that Phillip Roller promised to execute to him a title bond for the property, but the evidence clearly proves that Mr. Roller time and again, to numerous persons, denied that he ever executed any such bond, or was to execute it, and that he repeatedly told Mr. Duff he had executed no such bond and never would, and that if he had such a bond with his name to it, it was of his own getting up, and asking him to produce it, and that the deft declined and refused to do so. The deft did not introduce himself as a witness until the last deposition in the case and then, strange to say, did not say one word about his pretended title bond, of course we excepted to him as being incompetent, Phillip Roller being deceased, but notwithstanding the fact he was on the stand as a witness, he never produced a bond or any other evidence of title to the property, and did not claim to have ever had any, and in any way attempted to account for it. And there is no evidence in the cause that such a bond was ever in existence. If he had had it he would have produced it. If he had ever had it he would have stated the fact, and would have told what became of it.

The defendant is evidently trying to gobble up the house and lot without any right whatever. It is true he claims to have built the house, planted some fruit trees and lived there awhile, but it is shown that L. H. Gobble lived there for years, as the tenant of Mr. Roller, after Duff lived there, and paid rent to Roller, and that John Rutherford

(2)

rented the house and lot from Roller a few years before Roller's death, together with some other land's of Roller's, and that his brother A. E. Rutherford, took his contract and permitted Mr. Gobble to remain in the house, as a favor to Mr. Gobble and by consent of Roller.

We think the Deft. has failed to show any right to the property and that the same should be partitioned, or sold, and that the evidence shows that it should be sold. The answer of the widow consents to a sale and asks compensation for her dower out of proceeds.

Orr & Blankenship, for Plff.

J. C. Keller.
vs Brief
James M Duff.

OUT A BLANKET, FOR BIFT.

and the same for her power out of process.

sold. The answer of the widow consents to a sale

of the property, and that the evidence shows

we think the Deft. has failed to show any right to the property and that
house, as a favor to Mr. Goble and by consent of Keller.

Richmond, took his contract and retained Mr. Goble to remain in the
together with some other land, a of Keller's, and that his property was
rented the house and lot from Keller a few years before Keller's death.

This is in great
Orr

$$\begin{array}{r} 28.76 \\ 17.31 \\ \hline 6.45 - \end{array}$$
$$\begin{array}{r} 10.82 \\ 1.52 \\ \hline 9.30 \end{array}$$

$\frac{8590}{17} = 505 \text{ r } 10$

Balance Bro't forward

—DEPOSITS.—

Total,

Am't this check,

Carried Forward

No. _____ \$ _____

_____ 190

To _____

For _____

J. C. Roller.

vs

Plff

In chy.

James M Duff et als. Defts

The object of this suit is to have a partition, or sale, of the tract or lot of land in the bill mentioned, belonging to the estate of Phillip Roller deceased, And it appearing from an affidavit filed in the cause that the defendants, The heirs of Barbara C Lutt deceased, whose names are unknown, are non-residents of the State of Virginia, It is therefore ordered that they appear here &c.

J. C. Keller.

Order Publ'

Jas M Duffett

VIRGINIA:--In the Clerk's Office of the Circuit Court of the County of Lee
on the 27th day of April 1897.

Against

J. C. Roller

Plaintiff

In Chancery

J. M. Duff et als

Defendant

The object of this suit is to partition or sell the tract or lot of
land in the bill mentioned

And an affidavit having been made and filed that the defendant the heirs of Barbara C
Lutt deceased are unknown and are

not resident S of the State of Virginia, it is ordered that they do appear here within fifteen days
after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is further
ordered that a copy hereof be published once a week for four weeks in the Lee County Republican
and that a copy be posted at the front door of the court-house of this county on the first day of the next term of the
county court.

A copy—Teste:

Ort Blankenship P. O.

A. B. Munsey Clerk.

J. C. Roller
AGAINST } ORDER
OF
PUBLICATION.

J. M. Duff et als
Ors Blankenship
P. Q.

Virginia Lee County to wit,
I, A. B. Munsey Clerk
of the Circuit Court for Lee
County, do hereby certify
that I posted a copy of
the within order of Pub
at the front door of the
Court house of said
County on the 1st day of
the May term of the County
Court of Lee County.
Given under my hand
this the 20th day of May
1897. A. B. Munsey Clk

To James M. Duff, the unknown heirs of Barbara C. Tutt, deceased, and
Margaret Roller:-

-----Take Notice, That I shall, on the 7th day of April 1898, at
the law office of Orr & Blankenship, in the town of Jonesville, Lee
County, Virginia, between the hours of 6 A. M. and 6 P. M. of that day,
proceed to take the depositions of Alex. Rutherford and others, to be
read as evidence in my behalf in a certain suit in Chancery depending
in the Circuit Court of Lee County, Virginia, wherein I am plaintiff
and you are defendants; and if, from any cause, the taking of the said
depositions be not commenced on that day, or, if commenced, be not
completed on that day, the taking of the same will be adjourned and
continued from day to day, or from time to time, at the same place, or
from place to place, and between the same hours until the same shall
be completed. This April 4th 1898.

Very Respectfully,

J. C. Roller, by Counsel.

-----Orr & Blankenship,-----

Attorneys for Plaintiff.

108B.

J. C. Roller, Pl. Jff.

vs. } Notice to
take Depositions.

James M. Duff, et al, Def'ts.

Legal notice of this notice
is accepted. This April
5th 1898.

C. J. Durand
Atty for J. M. Duff.

Executed April 6-1898
By delivering a true copy
of the within summons to
Margret Baker in Lucca Va.
W. P. Weston S. L. C.

Virginian,
Print,
Jonesville, Va

} Form No. 302.

In the Clerk's Office of the Circuit Court of the County of
Lee Va.

J. C. Rafter
against

Plaintiff .

James M. Duff + others

Defendants .

This day

J. C. Rafter

personally appeared

before me,

A. B. Munsey

Clerk of the said Court,

and being duly sworn, made oath that

The heirs of Barbara C. Lutt, whose
names to him are unknown,

defendants in the said suit ~~are~~ not residents of the State of Virginia,

Given under my hand has Clerk of the said Court, this

26th day of April

A. B. Munsey Clerk

1897

J. B. Roller

vs.

{ AFFIDAVIT FOR ORDER
OF
PUBLICATION.

James M. Duff, et al.

Chas. Blaupership p. q.

Filed April 26th 1897
A. B. Munsey
Clerk

Southwest Virginian, }
Jonesville, Va. }

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

We command you to summon *James M Duff and the*
unknown heirs of Barbara J Lutt deceased and
Margaret Roller

to appear at the Clerk's office of our Circuit Court of the County of Lee at the court-house thereof, at the
Rules to be holden for said court, on the *1st* Monday in *May*, 1897, to answer
a bill in Chancery exhibited against *them* in our court by

J L Roller

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said court, at the court-house, the *27th* day of

April 1897, and in the *12th* year of the Commonwealth.

A copy—Teste:

Clerk,

A B Munsey Clerk.

J. B. Roller

vs. { SUBPCENA
IN CHANCERY.

J. M. Duff et al
Arr + B

P. Q.

TO 1st May Rules.

CIRCUIT COURT.

Executed May 15-1897
by delivering an attested
office copy of the within
summons to Margaret
Roller in Lee County Va.
W. P. Weston S. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

We command you to summon *James M Duff and the*
unknown heirs of Barbara L Lutt deed

to appear at the Clerk's office of our Circuit Court of the County of Lee at the court-house thereof, at the
Rules to be holden for said court, on the *1st* Monday in *May*, 189*7*, to answer
a bill in Chancery, exhibited against *them* in our court by

J. L. Keller

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said court, at the court-house, the *27th* day of

April

189*7*, and in the 12*th* year of the Commonwealth.

A. B. Munsey

Clerk.

A copy—Teste:

Clerk,

J. L. Roller
vs. { SUBPENA
IN CHANCERY.

J. M. Duff et al
Plaintiffs P. Q.

TO 1st May Rules.
CIRCUIT COURT.

Executed April 27th
1897 by delivering an
attested office copy of the
within summons to James M.
Duff in Lee County Va
This April 27th 1897
W. P. Weston S. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee--Greeting:

WE COMMAND YOU, That you summon

*Alex. E. Rutherford, Thos. Ball
E. N. Sword, Wm. Lawson, S. J. Lockhart, S. A.
Lockhart, Margaret Roller, & Samuel Frost*

a Commissioner in Chancery of the at the Law office of Orr & Blankenship
to appear before ~~the Judge of the Circuit Court of the County of Lee. at the court-house thereof~~ on the *7th*
day of *April* 1898, to testify and the truth to say in behalf of the *Plaintiff*

in a certain matter of controversy in our said Court, before the said Judge depending and undetermined between

J. L. Roller

Plaintiff. and

J. M. Duff

Defendant.

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *5th*
day of *April* 1898, and in the 12th year of the Commonwealth.

A copy--Teste:

A. B. Munsey Clerk.

-----XXXXXXXXXXXXXXXXXXXX-----

J. C. Roller

Vs.

SUBPOENA
FOR
WITNESS.

James M. Duff

-----XXXXXXXXXXXXXXXXXXXX-----

Circuit Court, the 7th day

of April 1898.

Executed in
part April 6 -
1898 By summoning
all of the within
named witnesses
W. O. Weston
S. L. C.

who is a member of his family
who has a good reputation
and is a good man. he is not
a witness to the crime.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee—Greeting:

WE COMMAND YOU, That you summon E. A. Gobble

at the law office of Mr Blankenship in Jonesville Va
to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof on the 30th
day of May 1898, to testify and the truth to say in behalf of the Plaintiff

in a certain matter of controversy in our said Court, before the said Judge depending and undetermined between

J. L. Roller Plaintiff. and

J. M. Duff Defendant.

And have then there this writ. Witnes, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 30th
day of May 1898. and in the 12^{mo} year of the Commonwealth.

A copy--Teste:

A. B. Munsey Clerk.

XXXXXXXXXXXXXXXXXXXX

J. L. Roller
Vs. } SUBPOENA
FOR
WITNESS.

J. M. Duff
XXXXXXXXXXXXXXXXXXXX

Circuit Court, the 30th day
of May 1898.

Executed May 30th 1898
By Summoning the
within named witness
and the witness demanded
his pay in advance
W. P. Weston S. L. C.

20
60
160
50
\$2.90

The Commonwealth of Virginia,

To the Sheriff of the County of Lee--Greeting:

WE COMMAND YOU, That you summon *Daniel Steptelon, Wm. Bull*

a Court in Chancery of *the law office of J. Duncanson*
to appear before the Judge of our Circuit Court of the County of Lee, at the ~~court house thereof~~ *24th*
day of *24th May* 189*8*, to testify and the truth to say in behalf of the *Deft*

in a certain matter of controversy in our said Court, before the said Judge depending and undetermined between

J. L. Roller Plaintiff. and
J. M. Duff Defendant.

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *16th*
day of *May* 189*8*, and in the 12 year of the Commonwealth.

A copy--Teste:

A. B. Munsey Clerk.

in that name of J. Duncanson

XXXXXXXXXXXXXXXXXXXX
J. M. Duff
Ado } SUPPLINA
FOR
WITNESS

J. C. Roller
XXXXXXXXXXXXXXXXXXXX

Circuit Court, the 24th day
of May 1898.

Executed on May
21 1898 by
Daniel Claffeta
& John Ball
Governeurs

for W. P. Minto
S. G.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee-Greeting:

WE COMMAND YOU, That you summon

F. M. Price, Thos. J. Ball
Mm L Lambert, Mm Lawson and John B Lawson
Laurence Ball

at the law office of Orr Blankenship in the town of Jonesville Va
to appear ~~Before the Judge of our Circuit Court of the County of Lee, at the court-house thereof~~ on the *30th*
day of *May* 1898, to testify and the truth to say in behalf of the *Plaintiff*

in a certain matter of controversy in our said Court, before the said Judge depending and undetermined between

J. L. Roller

Plaintiff, and

J. M. Duff

Defendant.

And have then there this writ. Witnes, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *26th*
day of *May* 1898, and in the 12th year of the Commonwealth.

A copy--Taste:

A. B. Munsey Clerk.

—XXXXXXXXXXXXXXXXXXXX—

J. B. Roller

Vs.

SUBPOENA
FOR
WITNESS.

J. M. Duff

XXXXXXXXXXXXXXXXXXXX—

Circuit Court, the 30th day
of May 1898.

Executed in part
May 27th 1898 By
Summoning all of the
within named witness
Except William Lawson
and John B. Lawson
W. P. Weston S.L.C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee--Greeting:

WE COMMAND YOU, That you summon

Joseph Marcum

Daniel Stapleton *Wm Ball*

a comr. in Chancery the law office of C. J. Duncan in
to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereon on the 24th
day of May 1898, to testify and the truth to say in behalf of the Deft

in a certain matter of controversy in our said Court, before the said Judge depending and undetermined between

J. C. Roller

Plaintiff. and

J. M. Duff

Defendant.

And have then there this writ. Witnes, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 16th
day of May 1898, and in the 12th year of the Commonwealth.

A. B. Munsey Clerk.

A copy--Teste:

XXXXXXXXXXXXXXXXXXXX
J M Duff
Ado } VERDENA
FOR
WITNESS.

J L Roller
XXXXXXXXXXXXXXXXXXXX

Circuit Court, the 24th day
of May 1898.

Executed
by summons
Joseph Marcum
on this subpoena
this May 18/98
P M Reaser
C L C

J. L. Roller
vs Order of Publication
J. M. Duff et al

Printer \$5.00

J. L. Keller
 Bill in Chancery
 James M Duff et al

1897 1st May rules Spr 2nd
 on main Defts & Dn
 for non residents
 11 2nd May rules D. M.
 Confd & P. Complete
 + Cause for hearing
 1897 June Term Decree Court
 11 Novr " " Court
 1898 June Term Decree final
 Chy O. B. P 106-7

Plffs Costs recovered

~~Clerk 9.07
 Tax 1.50
 Shff 3.80
 atty 15.00
 Printer 5.00
 J. P. S 13.50
 wits 6.50
 Co Clerk 7.50~~

~~Defts Costs
 Clerk 1.86
 Shff 1.60
 A. P. 4.12
 wits 7.52
 J. P. 8.00~~

Costs recovered from

~~J. P. 13.50
 wits 6.50
 Clerk 2.00
 Co 2.50~~

Plffs Costs

Clerk 9.07
 Tax 1.50
 Shff 3.80
 atty 15.00
 Printer 5.00
 J. P. S 13.50
 wits 6.50
 Co Clerk 7.50

~~Defts Costs~~

~~Clerk 1.86
 Shff 1.60
 A. P. 4.12
 wits 7.52
 J. P. 8.00~~

Costs recovered from

~~Defendants
 Shff 2.90
 J. P. 13.50
 wits 6.50
 Clerk 2.00
 Co 2.50~~

400.12

to J. L. Keller 7/8/50 and 9/4/50